

Bainbridge Township, Ohio
Board of Zoning Appeals
July 19, 2018

Pursuant to notice by publication and ordinary mail, the public hearing was called to order at 7:01 P.M. by Mr. Michael Lamanna, Chairman. Members present were Mr. Ted DeWater; Mr. Joseph Gutoskey and Mr. Todd Lewis. Mr. Mark Murphy was absent. Ms. Karen Endres, Zoning Inspector was present.

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

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

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

Mr. Bob Acciarri of ABC Development, LLC was present to represent this application.

Mr. Acciarri testified that they got approval back in March, there were several variances and there was also some correspondence from the fire department requesting a sprinkler system and a fire alarm and during the discussion it was agreed to that we would put in fire rated storage cabinets, Sherwin Williams agreed to it and went back and it has come back that there are some concerns that are strictly operational and to make sure they can enforce it. He said what their application is for tonight is to install a fire alarm system for the cabinets so it is the choice of Sherwin Williams to either put the fire alarm system in or put the cabinets in and enforce it or to build the fire alarm system which goes above and beyond to what we originally agreed to.

Mr. Lamanna asked that at some point there will be a decision made and he is assuming this is before they actually go into operation.

Mr. Acciarri said they are under construction so it will happen within the next month or so and they are leaning toward the fire alarm system.

Mr. Gutoskey said the fire department asked if you are going to do a fire alarm at Sherwin Williams.

Mr. Acciarri said it is strictly Sherwin Williams for the fire alarm and he wasn't aware of that correspondence. He said it is going to be a single unit and it is going to be monitored and there is going to be a monthly fee for it.

Mr. Gutoskey said so it would be more of private security type monitoring.

Mr. Acciarri said basically yes, we will put it in, install it, it has got to be all hard-wired but it is monitored so if there is an incident there it will call into the fire department, it goes to a central station and the central station relays it to the fire department.

Mr. Lamanna said the fire department doesn't come running out if it is a false alarm, they get false alarms then end up having to respond to them.

Mr. Acciarri said it is definitely above and beyond what they initially agreed to.

Mr. Gutoskey said he has one other observation, the current Sherwin Williams on East Washington Street, that building is all sprinklered.

Mr. Lamanna said he doesn't see a strong reason for one over another. He asked the board members if there is any reason not to allow it.

Mr. DeWater said as long as they are going to have a fire alarm.

Mr. Lewis said he is fine with a fire alarm system, he wants notification and to get the employees out with the bells ringing or whatever and get the fire department rolling with whoever the monitoring service is.

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

BZA Motion 2018-28 – 7045 Aurora Road – ABC Bainbridge LLC

Mr. Lamanna moved to modify the following conditions that were previously placed upon the variance approved in BZA hearing 2018-2.

1. With respect to the use of fire proof cabinets for flammable liquid storage, modify that condition to allow for either a monitored fire alarm system in the building or the installation of such cabinets.
2. The decision is to be made by the applicant and that decision to be made is one of those things actually installed by the time the store opens for business.
3. Once the decision is made the applicant will notify the zoning inspector of what decision has been made and upon the completion of the installation of whichever option is selected.

Mr. Gutoskey seconded the motion.

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

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

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

Mr. Bob Acciarri of ABC Development, LLC was present to represent this application.

Mr. Acciarri testified that their application had no signage on it obviously and the application tonight is for what they would like to have and because it is a multi-tenant building they are going to make room for a possible third tenant so it is Sherwin Williams and possibly two other tenants to split that other space. He said the request basically comes down to Sherwin Williams would like to have a ground sign which he believes is still fitting zoning and add another sign on the side of the building which would be allowed and that basically takes them over although it is a little bit larger but if they can get the signage on the side of the building that would be their request.

Mr. Gutoskey said he went up and looked at the current Sherwin Williams and they have a lot of window signage on their current store and they've got some graphics that are permanent, spray equipment and they have little banners across the top of the windows.

Mr. Acciarri said their application is not for any of that, if they choose to do that they will be back before the board, this is strictly for the building signage and we are not requesting any of that.

Mr. Gutoskey said he is just bringing it up.

Mr. Lamanna said because of the myriad of signs.

Mr. Gutoskey said they got these little banner signs across the glass and really if they do that it puts them over.

Ms. Karen Endres, Zoning Inspector testified that window signs become zoning enforcement issues because stores consistently put up window signs and not get permits.

Mr. Gutoskey said that is why he brought it up.

Mr. Lewis said his question is, putting up this building which is a multi-tenant building and he realizes that one of the occupants happens to be Sherwin Williams and it looks like the total amount of signage allowed for this building, whether you have one tenant taking all of it or multiples, it is 115.3 sq. ft. so now what we have is one tenant that is exceeding their proportionate share or their allocation of the space substantially even though the building faces Aurora Road so from his point of view you have one building and X amount of signage you are entitled and if you want to give it all to one tenant you have used it up and that is where he is at with it.

Mr. Acciarri said he totally understands.

Mr. Lewis said it is under appropriating your other future tenant or tenants so you are asking for another 49.37 sq. ft. which is bringing your total up to just about 160 sq. ft. so if he takes roughly 50 off of 160 it takes it down to about 110 sq. ft. and you are entitled to 115 and you have got future tenants coming in and he thinks at this particular point you are looking at wall signs of 15 sq. ft.

Mr. Acciarri said correct.

Mr. Lewis said you have got one tenant that is being way over allocated and even if you take off their sign you have met the standard on the building at 115 with 5 to spare. He said this is not new to how other shopping centers approach it also and his shot is if you want to give it all away to one tenant, that is your call because right now they are looking for 100 sq. ft. total, 49.37 times two that leaves 15 extra sq. ft. and there are other tenants that are going to come in. He said right now they are at 110 with the existing Sherwin Williams, 30 for the ground sign and two 15s for a future tenant.

Mr. Gutoskey said they are taking all of the lot signage, the ground sign and the building signs, they are taking it all, what they would be permitted for the site.

Mr. Lewis said they don't even have enough to put a ground sign in if they put in their two walls.

Mr. Gutoskey said they would just be able to put it in for themselves and not the other tenants. He said with all of the signage there, they are allowing none for their windows.

Mr. Lamanna asked how much are they typically going to put in their windows.

Mr. Gutoskey said he just showed a picture of the other Sherwin Williams.

Mr. Lamanna said there is probably about 30 – 40 sq. ft. of window space.

Mr. Gutoskey asked if the area of the sign is 30" by 19.9.

Mr. Acciarri said he believes it is the entire cabinet that is the way it was figured he believes.

Mr. Gutoskey asked Ms. Endres how she looked at the sign.

Ms. Endres said she thinks she did 6' by 2' 5".

Mr. Lewis said which is different if you are just buying individual lettering and pasting them on the wall face.

Ms. Endres said you factor out blank wall space on the channel letter wall signs but on the ground signs it is the sign.

Mr. Acciarri said either way they are allowed 115.3 sq. ft.

Mr. Gutoskey said if it would have been a block sign it would have taken up less square footage.

Mr. Lamanna said why do we need another sign on the side, everybody wants to have more signs but you do have a ground sign there already that is probably more effective than that sign is going to be.

Mr. DeWater said even if they brought that sign down to 15 sq. ft. on the side they would still be over.

Mr. Lamanna said the other thing too is we are allowing 15 sq. ft. so what is going to happen is they are going to come back and say they can't get by with 15 sq. ft. for these other tenants so people are coming back for a second bite of the apple so what is going to happen is once the variance has been granted coming back and asking for more, the bar you are going to have to jump over is going to be pretty high at that point in time.

Mr. Acciarri said understood.

Mr. Lamanna said you are probably not going to make it.

Mr. Acciarri said his understanding though is that we have a total allowable area of signage, how we allocate that is strictly up to us.

Mr. Lamanna said absolutely.

Mr. Lewis said he would say to use your space wisely.

Mr. Gutoskey said we have run into this problem before, with the shopping center just south of you.

Mr. DeWater asked if there is anyone in the audience interested in this application.

Mr. Lamanna said you have 75% of the signage that is being allocated to one tenant.

Mr. Acciarri said the sign is driving the variance situation.

Mr. Lewis said it is really going to pressure that building. He said the other thing is on a positive note, it is a local store that basically serves the local community and once you have gone by it once or you found it once, it is not like we are getting drive-by tourist traffic stopping in, he thinks the local community is going to pick up on its location really quickly and there are a lot of attributes, it is a nice new building, there is ample parking, it is going to be easy to get in and out of, it is adjacent to the rest of our heavy retail and you can oversize something also and he is concerned also that as you bring in other tenants you will want to do justice to their businesses and if the guy has got a 15 footer and he needs a skoch, when that guy moves in you got to leave us a little wiggle room, you just can't poor it into one tenant.

Mr. Lamanna said right especially with the issue of the signs that are going to go up in the windows.

Mr. Lewis said yes and if they hang them as banners within the building they are not window signage but they dress the windows up heavily so he thinks maybe that is a conversation our zoning inspector will have with that move in date or in advance of occupancy permits just to let Sherwin Williams know.

Mr. Acciarri said he will take care of it.

Mr. Lamanna said he is almost inclined to grant a certain amount of signage for the whole building because if they get rid of the one side then they are down to 108 sq. ft. and we know there is going to be 20 sq. ft. of other signs in there so just give them another 20 sq. ft. over that so that would give them a little more flex.

Mr. Lewis said that is a good idea.

Mr. Lamanna said make it 130 sq. ft.

Mr. Gutoskey said he would say 140 sq. ft.

Mr. DeWater said that sounds like a good number.

Mr. Lewis said it gives them another 25 or so more than where we are at and it gives the tenant and landlord a little bit of wiggle room.

Mr. Acciarri said we appreciate that.

Mr. Lewis said you (Mr. Acciarri) can work with your tenants to allocate and he wants to maybe footnote that even if we increase it it would be prudent to not use it all up with their window banners and your future tenants can't get a wall sign. He asked for a grand opening banner, do they need to take out a temporary permit.

Ms. Endres said there are no provisions for temporary signage in the commercial district and when those temporary banners go up they are in violation of zoning but it is not at the top of her list for enforcement so if she is aware they are there longer than expected for a grand opening she will have a chat with the store manager.

Mr. Lamanna said there should be temporary permits with a fee then there is a very clear procedure.

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

BZA Motion 2018-29 – 7045 Aurora Road – ABC Bainbridge LLC

Mr. Lamanna moved to grant the applicant the following variances.

1. Approval for a 30 sq. ft. ground sign.
2. A total signage of 140 sq. ft., including the ground sign, for a variance from the 115.3 sq. ft. allowed.
3. This amount of signage is intended on the basis that there will only be one Sherwin Williams sign on the front side of the building and not one on the side of the building.
4. This additional signage will accommodate any window signs that Sherwin Williams or the other tenants wish to put up and allowance for future tenant or tenants in the other part of the building.

Based on the following findings of fact:

1. This is a three tenant building and given the other signage in the area it will be reasonable to give them this increase and it will not create a situation that is in contravention with the character of the neighborhood.

Mr. Gutoskey seconded the motion.

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

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

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

Mr. John Zaranec was present to represent this application.

Mr. Zaranec testified that the board has everything in front of them. He said they have been at this property, they moved in a little over two years ago. He said most of the lot of three acres is wooded in the back and when he first moved in the previous tenant had put all of the debris and anything from the seasons right past the tree line and for the last two years they have been slowly clearing that out, moving it back and just cleaning up the woods a little bit and making some paths back there and part of that he filed permits for the shed, an Old Hickory shed by K and K on Rt. 306 over in Kirtland and had it mapped out where he was going to have it installed and the original plan was a little bit more than 50' off the property line, that was the application but he was not home when they came in and installed it. He said it is wooded back there and there is a little alcove of tree clearing right there and when they were putting it in they decided that it looks a little better tucked into the tree cove more so they moved it a little bit from the original plan, he wasn't there, he got home, it looked close enough but obviously it needs an 8' variance because it is at 42' from the property line not the initial 50' – 55' that was the plan. He said he did get authorization from both of his neighbors for the shed and location on each side, his property abuts against the Haskins farm in the back so it is all woods back there but on the two sides and obviously this is only on one side of the property line, just from their HOA regulations due to the size of the shed and just their by-laws to just get permission on where you are putting it, we don't have a foot restriction on where it is but both neighbors were okay with the size of the shed and the location so they both approved where it is and the other thing is when they were installing it it actually aligns with where the driveway comes out a little bit if you look at the driveway it has a little bit of a step out closer to the garage and so he assumes the guy installing it said it should line up with that so that has got to be fine for zoning purposes. He said it is an 8' variance, it is a 10' x 16' shed so it is not real easy to move, he thinks also the way it is placed and some of the grading there made it the most level place to put it 5' or 6' over, it wasn't going to be as flat or maybe look as nice and it is a nice shed, it matches the house and he thinks it adds to the property value, obviously with cleaning up the woods and just having it there and having the shed itself so that is the summary of how it got to be a variance.

Mr. Lamanna asked if the GIS can be brought up to see the property.

Ms. Karen Endres, Zoning Inspector testified that this is Pictometry and she can show better views.

Mr. Zaranec said it is pretty wooded and said it is right in there (he referred to the Pictometry photo that was displayed).

Mr. Gutoskey asked Ms. Endres to bring up ReaLink.

Mr. Zaranec said they had those wind shears in November and they have cleaned up a lot but there is still some back there that have fallen.

The board discussed that this was not intentional.

Mr. Lamanna asked if there is anyone in the audience that is interested in this application.

Ms. Laura Becker of 18107 Chillicothe Road testified that she is a real estate agent and showed the board a satellite view of the property.

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

Motion BZA 2018-30 – 17310 Bittersweet Trail

Mr. Lamanna moved to grant the applicant the following variance for the purposes of maintaining a 10' x 16' shed.

1. A variance to the minimum side yard, on the north side of the property, from 50' to 42' for a variance of 8'.

Based on the following findings of fact:

1. A practical difficulty exists.
2. The shed was installed by error closer to the sideline.
3. Where it is located is a heavily wooded area therefore it will not impact on the neighbor's property.
4. The variance is only 8'.
5. This will not adversely affect the character of the neighborhood as well.

Mr. Gutoskey seconded the motion.

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

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

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

Mr. Gutoskey recused himself from this application and departed the meeting.

Mr. James Junkin and Mr. Bill Joyce were present to represent this application.

Mr. Junkin testified that as you come down the driveway the lots are shaped like an L and he has a football field and then his neighbor would go all the way to the back and the property starts in the back. He said he needs more room so what he was going to do was put up a barn way in the back but it is way too costly and unfeasible so across from where his garage is right now he wants to set up another garage and he believes he is 12' instead of 50' so that is why he is requesting a variance. He said they could have moved it a little bit closer to where the existing garage is but then there won't be a turn-around, it would just be too tight between the two garages so that is the problem they are running into and again to put a barn way in the back but it added up to more than he could manage.

Mr. DeWater asked where the septic and well is on the property.

Mr. Junkin said it is in the front.

Mr. DeWater asked if they both are.

Mr. Junkin replied yes, it is right as you walk out the front door.

Mr. DeWater said he was just wondering if it was in the back.

Mr. Junkin said where the white truck is you just go straight across into this area. He said he talked with the neighbors, they recently bought the house 7 to 8 months ago and they have no problem if the board gives him permission to do so. He said the garage is in a very wooded area.

Mr. Lewis said he is trying to get an idea of how far the structure will be from the neighbor's house heading down.

Mr. Lamanna said it is a flag lot.

Mr. Junkin said you keep going all the way to the back. He showed on the aerial photo the location of the neighbor's house and the location of the new garage.

Mr. Lamanna asked if it is 60' wide or even wider.

Ms. Karen Endres, Zoning Inspector testified that it is about 280' between the driveway and the house.

Mr. Junkin said if he put it in the back he would have to put a road in around the swimming pool and get a variance for the road and everything else.

Mr. Lamanna asked about the plan for the finish on this structure.

Mr. Junkin said he just had the house re-sided with blue siding.

Mr. Lamanna asked if it is going to match the roof and siding of the house.

Mr. Junkin said yes.

Mr. Lamanna asked if the building is facing the street.

Mr. Junkin said technically it will be facing the street but it will be in the woods.

Mr. DeWater asked if the doors will face the other garage.

Mr. Junkin said yes.

Mr. Lamanna said the doors are facing across.

Mr. Lewis said it is 24' across what is facing the street with one window and asked if this would be the elevation you would see from the street.

Mr. Junkin said yes.

Mr. Lewis said and then the doors are around the corner facing the house.

Mr. Junkin said yes.

Ms. Endres said she would like to point out that she got the survey today so it appears that it is going to be a 25' setback rather than a 37' setback.

Mr. Junkin explained the location of the garage on the site plan.

Mr. Lewis said so the doors are facing doors and asked what is on the backside of this that would face the other neighbor's side, the opposite side of this.

Mr. Junkin said on the back of the garage, probably just siding.

Mr. Lewis asked if that was the front elevation and then this is facing the house.

Mr. Junkin said the back will be blue siding and it is just woods and added that right now he has a tractor and some other things and he just doesn't have any room, it is a bigger John Deere.

Mr. DeWater asked if there is any reason he couldn't rotate the building and move it back and over this way a little bit to get another 5' off to bring it 30' or 40' off the property line.

Mr. Junkin said he has all kinds of pool equipment amongst other things, they tried to look at everything, he would have to tear out equipment or some sewers, things like that.

Mr. DeWater said he was just asking if this is the only location you can go.

Mr. Junkin said they tried looking on the other side of the house but to put a garage up on the other side, it just doesn't work.

Mr. DeWater asked if anybody else has any questions about this application.

Mr. Lamanna asked what kinds of things will be put in the garage.

Mr. Junkin said he has a John Deere tractor that is going in there, he has two older cars that are going in there.

Mr. Lamanna said 35' across that is a pretty good size.

Mr. Junkin said he has a lot of things.

Mr. Lamanna said that is a pretty big area to make a turn.

Mr. Lamanna swore in Mr. Bill Joyce.

Mr. Bill Joyce of Joyce Building Company testified that one of the reasons it was set 35' back off this is his utility trench is underground, the electric comes right down along the side of the driveway and then bends right towards his garage to his power meter so we would be doing the footings just 3' to 5' off the existing asphalt to avoid that trench.

Mr. Lamanna said that is a lot of wiring. He asked if the number changed.

Mr. Joyce said yes to 25'.

Ms. Endres said her staff letter was crafted prior to the survey being performed and the original site plan had a 37' setback from the east side lot line. She said the survey came in today and it looks like it will actually be 25' instead of 37' so he would be looking for a 25' variance.

Mr. Lamanna said he is next to a flag with a minimum of 60'.

Ms. Endres said he is not going to be close to another structure.

Mr. Lewis said he doesn't see a need for screening because of the flag driveway, there is no line of site difficulties.

Mr. Lamanna said the board would like to see the front of this accessory building landscaped like the front of your house is landscaped so it matches up and looks like something that belongs in the front yard or facing the street.

Mr. Junkin said it will be nice, he promises.

Mr. Lamanna said the board would just like it in the same manner as the house is done just like we want the same siding and shingles so it matches up because with this location we want it to look like it is part of the house and goes together, it is not a pole barn stuck up that doesn't look at all like a dwelling.

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

Motion BZA 2018-31 – 7085 Country Lane

Mr. Lamanna moved to grant the applicant the following variance for the purposes of constructing a 24' x 36' x 16' high detached garage/accessory building.

1. A variance to the minimum required side yard setback on the east side from 50' to 25' for a variance of 25'.
2. In order to not have an adverse effect on the neighborhood the applicant is going to finish the detached garage in the same materials and style as the existing dwelling as well as landscaping the front of it in a manner that is similar to and consistent with the existing dwelling, again to not alter the character of the neighborhood.
3. The board notes that this is not an attached garage and will not be used for either occupancy or for the conduct of any business except in conformance with the home occupation requirements of the zoning code.

Based on the following findings of fact:

1. A practical difficulty exists due to the location of the house and trying to find another location to place the barn/detached garage.
2. In addition, the adjacent property is a flag lot so coming down along this property line, there is a 60' wide strip that is used only for a driveway for the adjacent property.
3. The detached garage will be a substantial distance from the next adjacent house and should not adversely affect that property or otherwise be inconsistent with the character of the neighborhood if constructed as required here

Mr. DeWater seconded the motion.

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

Mr. Gutoskey returned to the meeting.

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

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

Mr. David Koenig was present to represent this application.

Mr. Koenig testified that he did bring some additional pictures and is asking for a variance to the sideline and the situation with the garage at the property is he has a full size truck and he always has and they have been there for 15 – 16 years and he has never been able to park the truck in the garage. He said the existing garage on the house was actually constructed a bit odd because it was placed all the way to one side, there is literally a one foot section next to the garage door so his wife's mini-van fits in that existing garage but his truck does not and no other vehicles do, it is pretty much a one-car garage. He said they are proposing to build a garage directly off the back of the existing driveway, that is the one place they can do it, it is in front of the septic. He said the other issue they have got at their property is storage so we are proposing this garage, the building would have some attic storage above and that is actually another variance as part of this is height and we only have a partial basement under the house so we don't have much basement storage inside the house. He said as far as the garage itself we are looking to build a two-car garage, they have now two teenage children with vehicles, himself and his wife and a boat so storage space for vehicles is at a premium at our location and added they have two boats actually.

Mr. Lamanna asked if this garage has a second floor.

Mr. Koenig said it has a loft.

Mr. Lamanna asked what the elevation is.

Mr. Koenig said it is 22' at the peak.

Mr. Lamanna asked how high is it, the full 8', he sees it is a dormer style but it is very hard to tell.

Mr. Koenig said he thinks they were looking at a scissors truss but started entertaining the dormers so he thinks it is 7' 10", they haven't gotten to that part yet.

Mr. Lamanna asked if they are putting any facilities in there of any kind such as plumbing.

Mr. Koenig replied no.

Mr. Lamanna said we do have concerns about when people start building things like this, suddenly they become another dwelling.

Mr. Koenig said he has no desire for anyone staying any longer than they need to.

Mr. Gutoskey said there was a variance a while back on this property.

Mr. Koenig said 12 years ago.

Mr. Gutoskey said and you never got it constructed.

Mr. Koenig said no.

Mr. Lamanna said there is a rule we have and the rule is that if a matter has been brought before us on a previous application and ruled upon that ruling then becomes binding into the future unless there are some changed circumstances that exist.

Mr. Koenig said so his only issue 12 years ago is a truck that didn't fit into the garage so now it is two more vehicles and a boat and storage space is really a problem now.

Mr. Lamanna said so part of this is going to line up with the back of your house.

Mr. Koenig said correct.

Mr. Lamanna asked what the distance is between the house and this garage.

Mr. Koenig said roughly 10', the existing structure is 55' to the sideline now and so it would be 10' from the existing structure, 24' wide garage and then 20' to 21' to the sideline.

Mr. Lamanna asked if it is possible to move it closer.

Mr. Koenig asked closer to the house.

Mr. Gutoskey said you are at 21' and if you just go another 4'.

Mr. Koenig said what he was trying to do was keep the walkway that accesses the back.

Mr. Gutoskey asked how long that is.

Mr. Koenig said it is about 9' wide so this arbor is the walkway there and currently the dog house is there because we are staining the deck but that is the walkway there. He said he was trying to keep that traffic pattern between the two structures open.

Mr. Gutoskey asked if he can pull the garage back a hair and then slide it over a little.

Mr. Koenig said he took these off of GIS and he actually manually measured too. He said from the existing structure to the corner of the concrete is 35' 1".

Ms. Endres asked Mr. Koenig if he ever got a line survey done.

Mr. Koenig said he called everybody under the sun and no one was available and one guy said he might be able to do it and he was going to charge him \$950.00 to plant three stakes across from the driveway.

Ms. Endres said the one right before you and this is what we talked about at one point about the lines and the survey, ReaLink is not surveyor accurate so after the survey it turned out to be 25' instead of 37' and he didn't know what he was asking for because he didn't know where his pins were.

Mr. Koenig said he measured to the existing concrete and it was 35' and then he measured from there to the end of the maintained yard which lines up with what is on the GIS and again he knows it is not the pins but this was 18-1/2' to 19' to the edge of the maintained yard but he has been there for 16 years maintaining. He said he was trying to get to a point to measure and based on the angle of the satellite at the time the picture was taken.

Mr. Lamanna said it could be backed up a little bit.

Mr. Koenig said the problem he has is the septic.

Mr. Lamanna said we are not talking far, maybe 4' to 5' or something like that. He said you will have to back off a little bit anyway because nobody is going to be digging up your drive.

Mr. Koenig said the first leach field line is right there, 16'.

Mr. Gutoskey said it is hard without having a good accurate survey because if you push it back a little bit and over that line is diverging so your setback is getting wider.

Mr. Lamanna said you might pick up a foot plus then you can slide it over a little bit to the right, you can go back 5' and slide it over 4'.

Mr. Koenig said he could keep the walkway and have some on that side line.

Mr. Lamanna said it will be pretty close to 25'. He asked how close the adjacent house is.

Mr. Koenig said he used the GIS and that house has a very interesting setback, back behind him and turned although the road does turn a bit too.

Mr. Lamanna asked if he could move it back 5' and move it over.

Mr. Koenig said the septic line issue, how close can we get to that.

Mr. Gutoskey said it depends.

Mr. Lewis said you have 16' to play with so if it goes back 5' it will still leave you 10' to 11' before it hits your first septic line so there is plenty of room without disturbing it and also when they are putting in your foundation there is plenty of room to dig without getting anywhere near that. He said fortunately it looks like your backup leach field is further and deeper and further out so that doesn't come into play. He said without a real site plan he is kind of flying a little vague and he thinks the only thing he is willing to do is to set some guidelines that would be pushing it back with a defined measurement and how far off the side yard.

Mr. Gutoskey said there is 25' allowable already, he may find that just moving it back a little and just because that line is diverging.

Mr. Lewis said he may be able to pick it up to 27'.

Mr. Gutoskey said he has 25' but it is hard to tell without a survey.

Mr. Koenig said he got laughed at the other day when he called about a survey and he was told September 30th. He asked what the ruling is on how close the two structures could be to each other.

Mr. Lamanna said they could touch if you wanted them to because you have got eaves but that is a good reason to be back 4' to 5' then you are not going to have eave clash.

Mr. Gutoskey said the only way that comes into account is that if you have two separate residences side by side and if you get 10' or less both sides have got to be fireproof so if you go 10' 1/4" it could be okay but this doesn't make any difference, you could attach it, it can be right up against it.

Mr. Koenig said thinking as you are talking about it if he would rather push it back or sacrifice the walkway to some degree.

Mr. Gutoskey said he thinks you can just compromise it if you just go back a little bit and slide it over, the way it is at an angle you may be able to work around it.

Mr. Koenig said and get to 25'.

Mr. Gutoskey said as you go back on your lot the setback is getting wider. He asked the board if it should be tabled based on a survey.

Mr. Lamanna said he is not going to be able to get a survey by the next meeting anyway.

Mr. Gutoskey said maybe the house is closer than what this is showing.

Mr. Lamanna asked Mr. Koenig if he has a location survey on his house.

Mr. Lewis said he thinks in 2006 when we did the first application he was looking to see if there was a hardened site plan or survey at that time.

Mr. Koenig said he would have one done, he doesn't know if he has one from the mortgage.

Mr. Lewis said even to build it your building almost has a prerequisite, it is going to need a survey so they can locate it properly, it ultimately is going to have to be done one way or another.

Mr. Koenig said the only thing he is thinking is rather than table it, he would really like to get it started sooner or later but rather than tabling it if it is approved for 25' as it already is, we know we can get that pulling it towards the existing structure.

Mr. Lamanna said or moving it back. He would allow you to have it as much as 5' back from the structure and then you can pick the distance you need to meet the 25' and we will approve the bigger size building.

Mr. Gutoskey said Ms. Endres will need a survey drawing because it is going to be next to the house that is back so far.

Mr. Lewis said as you recall on the original variance application there were four 6' – 8' Pines and he sees your initials and date.

Mr. Gutoskey said they are bigger now because that was 12 years ago.

Mr. Koenig said there was one there already, we planted one there two years ago.

Mr. Gutoskey said so you only need three. He said when you find a surveyor get Ms. Endres the drawing to show you are copasetic with the side yard.

Ms. Endres said when you have the survey done, her advice is to have the house put on that survey so you have a benchmark for any new projects and have the garage put on the site plan also.

Mr. Koenig asked if he can find the survey when he bought the house in 2002 will that be usable.

Ms. Endres said if the house was accurately located.

Mr. Gutoskey said if it is a mortgage survey it is within 1/2 '.

Ms. Endres said it is better than nothing but mortgage surveys are not location surveys.

Mr. Gutoskey said supposedly they are but they are strictly for a mortgage, they are plus or minus.

Mr. Lamanna said so you allow yourself 1/2'.

Mr. Koenig asked if that would be sufficient for him to get the permit then.

Ms. Endres said she would defer to the BZA.

Mr. Lamanna said he thinks again you have to allow for the fact that it is not that accurate so you have to assume it is plus or minus 1/2' then you have to be 25-1/2' away so you know for sure but that may be a far better alternative than having a survey.

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

Motion BZA 2018-32 – 18862 Rivers Edge Drive East

Mr. Lamanna moved to modify the previous variance that had been granted with respect to this property for the purpose of constructing a detached garage.

1. Previously a side yard variance had been granted of 25' for a slightly smaller structure.
2. A variance in this case for a structure with a maximum height of 22' and a maximum size of 768 sq. ft.
3. The structure will be similar to the plans that the applicant has submitted with this application.
4. This detached garage will be used for storage purposes only and it will not be used for any dwelling occupancy or for any business other than in conformity with the home occupation regulations of the township.
5. The applicant will provide information to the zoning inspector with respect to assuring that the 25' setback will be met.
6. The applicant may place the front of the accessory structure up to 5' behind the existing corner of the garage and may move the structure closer to the house to be able to obtain an assured 25'.

Motion BZA 2018-32 – 18862 Rivers Edge Drive East - Continued

7. The board notes that if a mortgage survey is used there will be an extra one-half foot distance from the lines so used so it will be 25-1/2' to account for the inaccuracy of such surveys.
8. There is also a requirement that will continue from the previous variance with respect to the planting of four Pine trees.

Based on the following findings of fact:

1. None of the findings from the previous decision are really altered by this slightly different size building.
2. The setback from the property line will be maintained and therefore should not adversely affect the neighboring property or be inconsistent with the character of the neighborhood with a slightly larger building.

Mr. Gutoskey seconded the motion.

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

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

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

Mr. Gutoskey recused himself from this application and departed the meeting.

Mr. and Mrs. Brett Weber were present to represent this application.

Mr. Weber testified that he and his wife own property off of Bainbridge Solon Road which is on the south side of the 422 freeway and when they purchased the property it was three five acre parcels. He said the north side of the property was cut by Route 422 so it left three little parcels on the north side of 422 off of Northview back then. He said in 2004 they consolidated the south side to build their house, got a variance and consolidated everything which left 1.54 acres landlocked on Northview so since 2004 he has been trying to get access to this landlocked property, ODOT had a parcel which when the freeway went through it left a little sliver which abutted their parcel so this year he finally purchased the property from ODOT to get access to the parcel so the combined acreage is 2.5887 acres so it is under the three acre buildable lot so they are requesting a variance to make that a buildable lot.

Mr. Weber continued by saying he had the parcel surveyed twice just to try to get an idea of what he needed from ODOT and they vacated the parcel and it has been two years working with ODOT and they spent a lot of money trying to purchase that parcel with surveys just to improve that lot.

Mr. Lamanna asked Mr. Weber if he was left with that little chunk in the back there.

Mr. Weber said yes he was and that was three separate lots and when he and his wife built on the south side of the freeway they consolidated that into the 1.54 acres.

Mrs. Laura Weber testified that they had that separated off from their property on the south side because it was tied to itself.

Mr. Weber said it has been a process.

Mr. Lamanna said in theory when they do that if they leave you with a piece of land that is worthless you are compensated for the fact that the piece of land is worthless.

Mr. Weber said yes the piece underneath the freeway but this was the leftover and Northview was there, they had actually put Northview there to get three houses on Northview to give them access when Route 422 cut that whole subdivision.

Ms. Karen Endres, Zoning Inspector testified that if the board wants to look at a larger consolidation plat it might be a little easier to read.

Mr. Lamanna asked if this is being treated as a frontage on a road, the side that is on 422.

Ms. Endres said she is treating the proposed Weber lot as frontage on Northview the proposed ODOT lot has frontage on 422.

Mr. Lamanna said the question is do lots abutting a limited access highway are they actually located on that highway since there is actually no access to that highway and in fact Northview does not really intersect with the highway either, it is not an intersecting highway.

Ms. Endres said she agrees, this took a lot of thought in trying to figure out how to handle this, we don't have a definition of limited access in our zoning resolution.

Mr. Lamanna said but when you are talking about having frontage on a street on a road he doesn't think the State considers you really have to have frontage on that highway because it is limited access, you have no right to curb cut in or anything else so he doesn't think they consider that it is a property that has frontage on that highway. He said he doesn't know what difference that makes.

Ms. Endres said it makes a difference to some extent on what the setback would be for the proposed house, would it be 100' from the right-of-way of 422 or would it be 50'. She said she called the Planning Director and her understanding was that typically limited access highways, they handle the setback against that highway as a sideline rather than frontage.

Mr. Lamanna said it is not really frontage.

Ms. Endres said we don't have that definition in the resolution to handle that scenario and added that the ODOT lot is part of the right-of-way.

Mr. Lamanna said he thinks probably or technically one could say that the lot line is really "not on the road" because there is no access to the road from that lot, they have no obligation to let you attach it to the road.

Ms. Endres said the other lot is becoming more conforming because it is a bigger lot, it has frontage on Northview so it won't be landlocked anymore, the ODOT lot technically is becoming less conforming because we are making it smaller but again it is part of that ODOT right-of-way.

Mr. Lamanna said the proposed ODOT lot is of no concern whatsoever, it is moot, it is part of the highway right-of-way so it is not really a lot anymore.

Ms. Endres said she just tries to write it all up.

Mr. Lamanna said whether it is actually merging with the rest of the property.

Ms. Endres said ODOT didn't merge all of those pieces.

Mr. Lamanna said they don't because it is probably a lot of expense that they figure they don't need to go through, there is no point really so he doesn't really think that that is an issue. He said it is an interesting question because what you have is two pieces of property and the one piece of property was a remnant from an eminent domain so under the eminent domain principals you have been compensated for the loss of value of that property so you don't have any hardship.

Mr. Weber said they were compensated for what is underneath not the leftover of those three remnants so we only got compensated for the right-of-way of ODOT and underneath the freeway, we did not get compensated because it was three separate lots so back when the freeway went through it wasn't one lot, it was three little lots so we only got compensated for what is under the freeway and then the right-of-way of ODOT.

Mrs. Weber said when ODOT did that they didn't take into account that these lots were still attached to the main deed of the property so we are still paying taxes on this land so they never accounted for the fact that we are paying taxes on it, the property was to be counted toward the whole total acreage of land we were paying taxes on so they never accounted for that, they added to that cost out of our pocket, ODOT never addressed that and our neighbors have the same problem and they had to move forward to get that separated off and they never did, the Heuns who live next door to us and they were there when the freeway went through, they actually were living there and nobody ever notified them that these properties were still attached to their total acreage and counting towards their total taxes.

Mr. Lamanna said the average person doesn't realize that a lot of times they are creating pieces of property that are worthless and if you make a big enough stink then they will either have to take the whole piece of property or if they leave you an unusable piece of property that piece of property is worth nothing so they can't say we took 75% of your lot so we are going to pay you 75% of the value of the lot, it really doesn't work that way, they may try to do that but if you put up enough stink they have got to pay you for the difference in value of the lot when it started and the difference in the value of the lot when they are finished and if they create a lot that is a piece of property that is landlocked and unusable he thinks it would be pretty easy to get somebody to say that piece of property is worth zero, it is probably actually a liability because you have to deal with how you get rid of the property.

Mr. Lewis said and then the primary property of your lot, before they took the chunk in the middle, has to be re-deeded.

Mr. Weber said they already did that 15 years ago and he has been fighting with ODOT until this year when they finally were able to buy that lot from ODOT to give him access because he couldn't use it, it was just there but he has been fighting for 15 years trying to get ODOT to sell him that.

Mr. Lewis said and you have been paying Geauga County property taxes on these little leftovers.

Mr. Weber said they have.

Mrs. Weber said they consolidated three lots.

Mr. Weber said he didn't want that attached to the south side he wanted it completely separate and they have been paying taxes so they are trying to improve the lot they are trying to make it a buildable lot and they finally got ODOT's approval.

Mr. Lamanna said you could challenge the assessment they put on that piece of property, it should be zero, it is unusable.

Mrs. Weber said they tried that, they wouldn't make it zero so they had to pay some taxes on it.

Mr. Lewis said gift it to the State.

Mrs. Weber said and then they couldn't even do some of the things they were proposing to do because they didn't have access to it, if they even tried to go on their property they would be trespassing.

Mr. Weber said unfortunately they paid a good chunk of money on ODOT's parcel.

Mr. Lamanna asked how big is the area that is going to be buildable on this.

Mr. Weber said the only thing he wanted to propose for ODOT is for the driveway just to get into that parcel and as you see how the lot is formed basically right where the ODOT property ends that big area right there would be where the house would be.

Mr. Weber explained the buildable area of the lot and the driveway location.

The board discussed the lot size with the applicants and the placement of a future house.

Mrs. Weber explained the location of the greenspace for the subdivision and the areas that are not going to be built upon. She asked if they wanted to try to get an easement for the sewer line going in back there would that help. She added that it is not a public sewer yet because it is still not part of the subdivision.

Mr. Lamanna said if your property is not in the 208 plan.

Mrs. Weber said the 208 plan can be updated to include that parcel. She said if the person who buys this really wants to tie into sewer they can update the 208 plan to include that parcel.

Mr. Lamanna said they can but whether they will is another question.

Mrs. Weber said right, the trustees have to recommend it to the county and it would be just for sewer. She said usually for commercial it is more of a concern but for residential areas, one resident being tied into sewer but she is asking if that would be a concern.

Mr. Lamanna said they are concerned about these things because what happens is when you can't arbitrarily do this, the reason they call it a plan is it is not designed to be on an ad hoc basis.

Mr. Weber said they obviously would go through the proper channels to amend the 208 plan.

Mr. Lewis asked if you have been to the county on that to even have the conversation.

Mr. Weber said he has talked to Planning, Mr. Dietrich and Water Resources, yes.

Mr. Lamanna said there is no place to put a septic on here, right.

Mr. Weber said he doesn't know.

Mrs. Weber said there are some drip systems that require less space than a typical septic system.

Mr. Weber said ideally it would be sewer and water, that is why they talked to Water Resources and Planning and they didn't say either way, we would have to amend the 208 plan but it is literally probably from me to the wall, that is where the sewer is going to be, it is that close.

Mr. Lamanna said you say going to be.

Mr. Weber said if you drive back there, he thinks it is called Clayton Trail, seven years ago when Canyon Lakes was developing all of that they had to send all of the adjacent property owners because Canyon Lakes was going to mess with some wetlands so we got the plans seven years ago and we knew what the plan was and how close the road was.

Mr. Lewis said so that land that you have to cross over, that greenspace, is that owned by the Homeowner's Association.

Mrs. Weber said yes so then an easement would have to be obtained from that.

Mr. Lewis asked if they have done that before for others.

Mrs. Weber said she was not aware of it, Ms. Endres might be more aware if they have ever done that before.

Mr. Lamanna said he doesn't know how anxious they would be to do that because they may not want to set the precedent of extending that water system because if they extend it to one place then the next person who has a piece of property down there and there is at least one of them down there adjacent to Canyon Lakes.

Mr. Weber said they are all owned by ODOT other than their neighbors.

Mr. Lamanna said there is property on Chagrin Road that is owned by somebody that would like to develop it into a bunch of lots and if they allow an extension of water to one place when the other people who happen to be close enough to tie in come in and want it extended to them too then it becomes, what is the basis for not extending it if it was extended here, it starts to look a little arbitrary.

Mr. Weber said he has grown up here and has known Mr. Hugh Edwards for a very long time and he knows what Canyon Lakes is to Bainbridge Township, he knows all about it, he is just trying to get back and improve the property that they have.

Mr. Lewis said if we go forward with anything with what the board decides tonight it is still on you to make it a whole parcel. He said these are interesting points of discussion, mostly just to be sure you are aware.

Mr. Lamanna said the reason for these questions is this is not supposed to be an iterative process here when we are creating a lot like this, it is not like we will start here and say here are all of the non-conformities we have and then later come back and find there are a lot more non-conformities because in the beginning we want to look at somebody who is asking us to create a very weird lot here and when you start stacking up the number of variances that the lot is going to require then it becomes a little more problematical to grant that variance, that series of variances so if we are saying not only are we going to have to grant variances for overall lot size and side lots and everything else at some point we have to say timeout here, this is really beyond the scope of what should be granted a variance, there is not really a strong reason to be granting a variance because the variances to create this thing are so large and so many and that is one of the criteria is how significant the variances are and that is why we are asking questions if we are actually going to have a spot to build a house, will there be enough room here for a deck so relief will be needed and if we look at all of this in one fell swoop there is a question of how significant and sizable are these variances and should we be creating a lot that is non-conforming. He said typically we don't let people create smaller lots unless there is a very good reason, we get the people who have the situation where they once had a 10 acre lot but it was under the old system where they platted to the centerline of the road, the legals all go to the centerline of the road, people don't own to the centerline of the road they only own up to the right-of-way so we have people who are .1 acre short or .2 acres short.

Mr. Weber said you are not telling them anything that they are not surprised at, he had to get two variances to put the house on the south side, they actually tore down an old farmhouse to improve that lot and it has been improved ten times over and he is just trying to do the same on the north side.

Mr. Lewis said maybe to Mr. Lamanna's point beyond you getting utilities covered it might be prudent to actually see a site plan of what you can build here that conforms to our side and rear front yard setbacks because to approve this to find out you can't build anything on it because we don't really have a home footprint site plan makes it a little tricky and added that he hopes he explained that okay.

Mr. Weber told Mr. Lewis that he did.

Mrs. Weber said they could just take one of the little ones they are putting in now because those are the kind of houses that are all going to be in there so if someone wants that.

Mr. Weber said he is trying to wrap his logical mind around something like that because the biggest house you can imagine is on a quarter size of that parcel. He said he does understand that and he also understands that not everybody wants a big mansion either so there are options, it is not like you have to put something the size of Canyon Lakes on this parcel and there are a lot of options it can face.

Mr. Lewis said he is almost thinking to table this and say take your border of your lot and take a scale and draw a boundary around this what our setback requirements are and then figure out if there is enough in there to build something because he gathers you are not planning to move in there.

Mr. Weber replied no.

Mr. Lewis said so this is for resale or investment so be sure you can actually have enough room to build something in there whichever way you are going to orient it.

Mr. Lamanna asked if they have consulted with realtors on whether this can actually be sold.

Ms. Endres referred to the site plan and said this is the building site right here and the dotted lines are the setbacks and said this is 50 instead of the 100 because of the limited access so there are 50' sideline setbacks here and this is the 90 so it is on here already. She said she thought going the direction of saying let's see a house footprint in there and a driveway too, show where the driveway would go.

Mrs. Laura Becker testified that people will hear the noise.

Mrs. Weber said they actually have a quieter lot than what they are putting in, it is very loud back there, it is actually not as loud up here because we are above the freeway, we actually sit above the freeway.

Mr. Weber said you are not able to hear as much as if you are down here where they are building.

Mrs. Weber said this drops down where the new subdivision is going and it is right on the freeway.

Mr. Weber said you can talk to the neighbors, these two here.

Mrs. Becker referred to the site plan and said she used to live in this house, she grew up there so she knows exactly what they are talking about it.

Mrs. Weber said people don't really want these bigger houses with bigger lots, this is the trend that has been going on, we are getting a lot of empty nesters it seems like.

Mrs. Becker said they want a ranch with a basement.

Mrs. Weber said all of Canyon Lakes lots are selling, they are going for the smaller lots and it is what it is. She added that it is wooded all around it but they just haven't been able to access their property before this, we would be trespassing, we had to go to this neighbor and ask him if we could walk back.

Mr. Weber said now we have that and it is the next logical step, he didn't want to buy it just to buy it and just put a tent there.

Mrs. Weber said it was a lot of work going through ODOT, this process because they didn't even know what was going on over here and ODOT lost it a few times.

Mr. Weber said when you talk to the building department and as soon as you mention his name they said they never had a vacated parcel before and they didn't know what to do. He said when Mr. McIntyre was here he first approached him way back when and he went through two people at ODOT until he was finally able to get this.

Mr. Lamanna said the annoying thing about this is all of this stuff should have been handled when they were acquiring the properties.

Mr. Weber said or it should have been put in ODOT's name and it was only them and their neighbors the Heuns because further down 422 ODOT kept that because they compensated the homeowner but it was left over there. He said they know it would sell just based on the location.

Mrs. Weber said it is a flat parcel too.

Mr. DeWater asked if they are planning on building a house and selling it.

Mr. Weber said just marketing it, he has been dealing with this for half of his life it seems like.

Mr. Lewis said you could build a 1,200 to 1,600 sq. ft. house, nothing real crazy.

Mr. Weber said that is all they are asking.

Mr. Lewis said if you go up and put a second floor on the house you pick up some more room. He said he sees the biggest challenge is the sewer.

Mr. Weber said and obviously he already thought about this so many times that he thinks right now that it is going to be a private road but eventually when it is all built out and maybe they will turn it over to the township, it will be a county road and then we will address it then. He said he is in no real big hurry, he would like to say this will be done and he would like to market it.

Mr. Lewis said you did your deal then with the purchase of the property from ODOT.

Mr. Weber said that is all done and vacated. He said nobody told him the whole process so basically he went about it backwards, he surveyed it and then he surveyed it again with Mr. Gutoskey and then he purchased the parcel from ODOT, went to planning to record the deed and they asked if he went to zoning and nobody told him so that is why he is here because he can't record the Governor's deed that he got and planning said they had never seen a Governor's deed, this is rare and he got one and gave it to them and they said he actually had to go to zoning and get approval and that is when he talked to Ms. Endres and again he thinks his emails go back to 2014.

Mr. Lamanna asked if the county can force the State of Ohio whether they cannot let you record that deed.

Mr. Weber said he was so lucky when he got that deed because it took 2-1/2 years dealing with the State of Ohio and he didn't understand the whole thing until he realized that this isn't very common, you almost never get a Governor's deed so he was able to do that and he thought he was out of the woods.

Mr. Lewis said so you have two remainder lots, the left overs.

Mr. Weber said yes.

Mr. Lewis said which were seriously two non-conforming lots of record at that point.

Mr. Weber said correct.

Mr. Lewis said you put those together and you have a slightly bigger piece but it is still a non-conforming lot and then you add the ODOT lot to it so we are getting closer.

Mr. Weber said we are getting closer, 2.588 acres and he thought it was actually going to be over three.

Mr. Lamanna asked how big the original lot was, how they got this back lot, was it part of something else.

Mr. Weber referred to the site plan and said these are the three lots that we own and we own all of this and what happened was this went straight through and this went straight through so these were three separate ones and in 2004 they wanted to build a house, tear down the old farmhouse so they got the variance and they consolidated everything and then at that time he was thinking he didn't want three separate lots, that is pointless so they were able to consolidate this and the zoning board approved it so he has been to the zoning board multiple times dealing with this because he wanted to build, he had side lot issues, the house in front, zoning told him he had to tear it down obviously and his barn was in front so it has been kind of a nightmare but yes it was three separate and then in 2004 they got a variance and consolidated that and then just this year he was able to purchase this, they vacated this under here too and then finally got a Governor's deed so he had the deed to this, this, this and then went to the recorder's office and they said you can't do that so he had to come to zoning and that is when he talked to Ms. Endres again. He said he even talked to her in 2014 telling her what he wanted to do and he thinks it was okay at that point.

Ms. Endres said she thought it might need a variance.

Mr. Weber said but it took from 2014 to 2018 with ODOT trying to get that parcel.

Ms. Endres said the county has to approve it too and she thinks the county is going to look for soils testing to see if you can put a septic in. She said to talk to Mr. Dave Dietrich.

Mr. Weber said they did and he asked if there is sewer and water there and we said there was access but they would have to get an easement and he didn't hear anything else after that meaning that we would have to amend the 208 plan or we would have to put in a septic system which we have an on-site down here on this parcel, on the center parcel, they are smaller but obviously we would like to do the sewer and water if possible and then the neighbors over here as a side note, there are only three houses, there is a house here and a house on Northview and then the house next to ours and they want sewer and water and we were going to propose to extend the line from over here from our property to the three homeowners at our dime so there are other options if they can get everybody together, contact Water Resources and have private pay to extend the water and sewer over there. He said he knows Mr. Hugh Edwards and he may or may not allow the easement depending on the cost.

Ms. Endres said she does have a question on the highway and is that simply an easement that gives ODOT access across you property to the freeway.

Mr. Lamanna said it is a highway easement for Northview for the county for a culdesac.

Mr. Weber said they had to put Northview in because of the houses that were cut-off. He said he thinks they actually tore down two houses or they sold out to ODOT. He said if he gets approval he can then go to the recorder.

Mr. Lewis said the state did this creating landlocked properties and the county turns around and forces you to pay taxes on it.

Mr. Weber said they have ever since we purchased the property.

Mr. Lewis said you guys got smacked two different ways.

Mr. Weber said we argued multiple times.

Mrs. Weber said they did and when they re-did the deed this section that we deeded off, they always felt they had to jump through hoops and never quite got their goal to get this off the tax records completely and that was not done.

Mr. Weber said so they are still paying it regardless, it is still of value according to Geauga County.

Mrs. Weber said if they can get that deed recorded for that access then they could have access off of Northview and actually access property they pay taxes on.

Mr. Lamanna said the only one you would worry about is the current record holder which is the State of Ohio and they are not going to sell it to somebody else, obviously if you want to transfer it on you would have to get it recorded but in terms of its usefulness to you, the fact that it is not recorded, it is still a valid deed, it is still your property. He asked if this has created any issues anywhere. He asked what happened with the property that is down by Snyder Road and Bainbridge Road that goes down in back of the freeway. He asked if there are any other likely collateral issues from any other properties that might fall into this category.

Ms. Endres said we've got noncontiguous lots, the Heun property is right in the back there, they created that non-contiguous situation and ODOT ended up buying the excess property.

Mr. Weber said they are tiny because as you see you just follow ours, it just gets real narrow.

Mrs. Weber said they get smaller and smaller and asked if Canyon Lakes bought those.

Mr. Weber said no they were trying to for their greenspace but then they would have to incorporate that into their development and the blessing out of this was when they did all of this they realized that Heuns had actually built their garage pad on their property, it was there forever and they didn't know so that is why you see a little sliver, they actually sold it to him so he didn't have to tear down his cement pad. He said the board can probably sense their frustration.

Mrs. Weber said some of the original markers and surveys weren't really accurate.

Mr. Lamanna said when they get done they should at least restore some sense of order to the properties and not having all of those pieces, parts and slivers.

Mrs. Weber said and if they don't fully understand what it means and she doesn't know if that was disclosed fully, it doesn't appear to be so because it was all stuck on the same deed and usually when you separate something completely off it shouldn't stay on the deed.

Mr. Lamanna said again if you don't have somebody that is in the know about these things then you don't know to say we are going to have to do this, this and this because of it and you are going to pay all of the costs, they can't come and do it but then they have to pay and the trouble is if you don't have somebody who knows to say we want you to pay for this, this and this and if you don't then we will be talking to the probate court judge who is going to make a decision on what you have to pay for.

Mr. Weber said they don't want to go down that route.

Mr. Lamanna said they don't either and a lot of these things, they know what the outcome is, it is pretty well established what their obligations are but if somebody doesn't push it they do it as cheaply as they can.

Mr. Weber said it is killing them that they are paying taxes on something they can't use.

Mr. Lewis said he doesn't have a problem with the lot joining, it is a dirty rotten shame situation and their biggest challenge is getting a buildable site and the hurdles.

Mrs. Weber said they've got quite a few.

Mr. Weber said they are in no hurry, they just wanted to improve the lot.

Mr. Lamanna said this is a highly unusual situation.

Mr. Weber said they have heard that from every department they have gone to.

Mr. Lamanna said technically this is creating sub-sized lots, there is very little legal reason for us to grant relief to somebody who has sub-sized lots especially when the lots were created as a result of eminent domain, that really takes away almost any argument that the property owner has.

Mr. Weber said they shouldn't have been paying taxes since then but obviously they have.

Mr. Lamanna said from that standpoint it creates a little bit of a problem and this is kind of a really weird situation and his only concern is he doesn't want somebody trying to use this as a precedent. He said there is a big parcel down by Snyder and the freeway and bounded by Bainbridge.

Mr. Weber asked if it is landlocked.

Mr. Lamanna said no, it is not landlocked but he thinks they will want to try to develop it in smaller than three acre lots. He said here it is pretty good because this is at 2.6 acres so they wouldn't gain a huge advantage based on that so it is not like it is a one acre or something like that because that could be real heartburn for us because then there may be a whole lot of situations where people are going to come running trying to get pieces carved off etc. He said he thinks that this is such a one off situation and if you can find somebody who can figure out how to put a house on it and is willing to be that close to the highway more power to you.

Mrs. Weber said they will have a nice road that is not on a main road and that seems to be what people are looking for.

Mr. Weber said there are a lot of deer there.

Mr. Lamanna said the only thing the board has to do is grant a variance to the overall lot size.

Ms. Endres said right.

Mr. Lamanna said there is not a shape issue.

Ms. Endres said they have frontage on Northview but maybe the lot width should be addressed for a housekeeping thing.

Mr. Lewis said you need a 200' minimum lot width for a three acre lot.

Mr. Lamanna said yes we should cover that.

Ms. Endres said the building line is that dotted area and inside that dotted area is the building location of the house.

Mr. Lamanna said so really the lot width is right here, he referred to the site plan.

Ms. Endres said the lot width would have to be right here, she referred to the site plan.

Mr. Lamanna said it is 175' to the building so that is not bad.

Mr. Lewis said it is close so it would need a 25' variance on that.

Mr. Lamanna said we could make it 170'.

Ms. Endres said give some leeway because the lot narrows back.

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

Motion BZA 2018-33 – PP#02-712500 and PP# 02-391500

Mr. Lamanna moved to grant the following variances for the purposes of consolidating two lots which were the result of remainders from the construction of US 422 which has an area of approximately 2.58 acres.

1. A variance from the minimum required 3.0 acres to the actual approximately 2.58 acres of the combined area of these two lots.
2. A variance to the minimum required lot width which as measured at the proposed building line, as shown on the plans, is slightly in excess of 170' so a variance is granted for 170' with respect to the building line.
3. The board is not considering this to be a corner lot because it is not at the intersection of Northview Drive with US 422 nor is it being considered a multiple frontage lot because although the lot abuts the right-of-way of US 422 it has no access to that highway as it is a limited access highway.

Based on the following findings of fact:

1. There is a practical difficulty because these are two crazy pieces of property that are left over from eminent domain and hopefully it will provide a usable buildable lot.

Mr. DeWater seconded the motion.

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

Mr. Gutoskey returned to the meeting.

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

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

Mrs. Laura Becker was present to represent this application.

Mrs. Becker testified that she lives ¼ mile down the road on Chillicothe just across from Bainbrook.

Mr. Lewis said there are two lots, a sliver and a main parcel.

Mrs. Becker said actually as part of that sliver is concerned she did an affidavit of fact and now they are one.

Mr. Lewis said good housekeeping.

Mrs. Becker said she didn't know there was so much hardscaping done on the property until she talked to Ms. Endres.

Mrs. Becker referred to a site plan and explained to the board the right-of-way.

Mr. Gutoskey asked if ODOT took any property.

Ms. Endres, Zoning Inspector testified that she doesn't know why that is like that.

The board discussed the right-of-way on Chillicothe Road.

Mr. Lamanna said it looks like when somebody put the data in there trying to delineate the road right-of-way but the program ended up leaving a gap in there.

Mr. Gutoskey said they widened the right-of-way on Rt. 306 when they did Pilgrim Village and referred to the new house on the corner.

Mr. Lamanna said you are adding a pool.

Mrs. Becker said yes.

Mr. Lamanna asked if the other stuff is around the pool.

Mrs. Becker said it would be a slight addition to the deck to make it so that it connects to the pool with a little gate to make everything nice and tidy. She said it is to go to the current back to the pool and the current lot size is 1.18 acres, it is a non-conforming small lot. She said it is far enough away from all of the property lines and she had no idea of this that she is already over lot coverage.

Mr. Gutoskey said you have got that driveway all the way to the back because of the garage in the back.

Mrs. Becker said yes there is a garage in the back.

Mr. Gutoskey said that is why the lot coverage is over. He said it is a nice size garage.

Mrs. Becker said yes but unfortunately it doesn't fit her car, it is too short. She said her car is a GMC Yukon and she has a little workspace in the back and she would have to rip it out in order to fit her car in. She said she would love to rip it down and put a garage on the side of the house but she is not going to do that.

Mr. Lewis said he has no issues with this, it is a small lot, this isn't very substantial and it is in the middle of the lot.

Mrs. Becker asked if you need a permit for a fence, she wants to put up a fence for her dog and if it would need a variance too.

Ms. Endres said if the fence is higher than 4' in the front yard it would need a variance, you need to be completely on your own property and the highest most people build is 4' to 6'.

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

Motion BZA 2018-34 – 18107 Chillicothe Road

Mr. Lamanna moved to grant the applicant the following variance.

1. A variance from maximum lot coverage from the current lot coverage to a total lot coverage of 16.28%.

Based on the following findings of fact:

1. The increase is less than 1% to the existing lot coverage so it is a small variance.
2. This is a sub-size lot, it is barely more than an acre and the other development on the property is reasonable and a lot of the lot coverage is due to a garage being behind the house and the additional driveway required for that.
3. With respect to the interior lines, since the applicant is filing an affidavit of fact with respect to the two parcels that comprise this lot the board will not consider the interior lot lines and consider these variances necessary to ignore those lot lines to be granted with this application.

Mr. Lewis seconded the motion.

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

Since there was no further testimony, the public hearing was closed at 9:49 P.M.

Respectfully submitted,

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

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

Date: August 16, 2018

AUDIO RECORDING ON FILE

Bainbridge Township, Ohio
Board of Zoning Appeals
July 19, 2018

The regular meeting of the Bainbridge Township Board of Zoning Appeals was called to order at 9:49 P.M. by Mr. Michael Lamanna, Chairman. Members present were Mr. Ted DeWater; Mr. Joseph Gutoskey and Mr. Todd Lewis. Mr. Mark Murphy was absent. Ms. Karen Endres, Zoning Inspector was present.

MINUTES

Mr. Gutoskey moved to adopt the minutes of the June 21, 2018 meeting as written.

Mr. DeWater seconded the motion.

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

APPLICATIONS FOR NEXT MONTH

Application 2018-35 by Ruth E. Jefferson for property at 17790 Haskins 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 2018-36 by Brian G. Feeley, Architect for Discount Drug Mart for property at 8459 Washington Street

The applicant is requesting area variance(s) from the landscaping screening requirements. The property is located in a CB District.

Application 2018-37 by Brian G. Feeley, Architect for Discount Drug Mart for property at 8459 Washington Street

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

Application 2018-38 by CVS Health for property at 16801 Chillicothe Road

The applicant is requesting modification to the previously approved landscape plan. The property is located in a CB District.

Application 2018-39 by the Federated Church Family Life Center for property at 16349 Chillicothe Road

The applicant is requesting the renewal of an existing conditional use permit for the continuance of a YMCA day camp. The property is located in a R-5A District.

The Bainbridge Township Board of Zoning Appeals set a public hearing on the above applications for August 16, 2018 at 7:00 P.M. at the Bainbridge Township Community Hall, 17826 Chillicothe Road, Bainbridge Township, Ohio and unanimously resolved to request the Bainbridge Township Board of Trustees to issue a purchase order for legal advertising.

Since there was no further business, the meeting was adjourned at 10:50 P.M.

Respectfully submitted,

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

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

Date: August 16, 2018