

Bainbridge Township, Ohio
Board of Zoning Appeals
August 18, 2011

Pursuant to notice by publication and certified mail, the public hearing was called to order at 7:00 P.M. by Mr. Todd Lewis, Vice Chairman. Members present were Mr. Christopher Horn, Mr. Mark Murphy and Mr. Mark Olivier. Mr. Michael Lamanna was absent.

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

Application 2011-20 by Michael D. Zaito for property at 7610 Cottonwood Trail

The applicant is requesting an area variance for the purpose of maintaining an existing driveway. The property is located in a R-5A District.

The zoning inspector's letter dated August 18, 2011 was read.

Mr. Michael Zaito, applicant was present to represent this application.

Mr. Zaito testified that when he purchased the home the driveway was already in place of course and it was actually cut once before he took ownership of the house because it was kind of intruding over the property line and then he came to find out it was still intruding over the property line so he said he would cut it again, they had a survey done and he cut it back about 9" from the line. He said it is his understanding that he should be 2 ft. from his property line with the pad or driveway so he is just asking for a variance for that foot or so because it makes it kind of difficult to pull into his garage as that pad gets smaller and smaller. He said he does have a photo of the work that is completed and submitted it to the board.

Mr. Horn asked if the only part of the driveway that encroaches is the pad itself, the turn-around area.

Mr. Zaito replied yes.

Mr. Horn asked what the width of the pad is.

Mr. Zaito said it is 21' and at one point 26' at the widest.

Mr. Olivier asked if it is a side entry garage.

Mr. Zaito replied yes. He said as you can see, he kind of cut it and here is the property and his neighbor's driveway is brand-new and they did some landscaping between the two properties as you can see by the photo.

Mr. Wrench testified that the house is a few years old, it was one of the first ones built.

Mr. Murphy asked who the builder was.

Mr. Zaito said Premier Custom Homes and you can see from the line, he was intruding but he didn't know, he didn't put it there and when he went to see the house there was nothing on either side of it, it looked real nice, it was a beautiful lot but little did he know that the driveway they had put in was intruding across the property line.

Mr. Lewis asked if the driveway is asphalt.

Mr. Zaito said yes it is and he just had it re-sealed, it was about three years old and it was never sealed so once he had it cut it would be a good opportunity to seal it and it was cut again actually for the second time.

Mr. Lewis referred to the other driveway and the orientation of the house located to the driveway side and asked if his driveway is parallel to yours (Mr. Zaito) and he has a side entrance also.

Mr. Zaito said yes and the two garages face each other.

Mr. Lewis said so the pad is not sitting in somebody's living room view.

Mr. Murphy asked if Premier Homes is still in business.

Mr. Wrench said he knows that the applicant spoke to them when he had it cut.

Mr. Murphy asked Mr. Zaito if he contacted Premier Homes and what was their response.

Mr. Zaito said the gentleman was pretty receptive to it, he told him that they would cut it and do whatever it took and actually prior to him buying the house it had to be cut before he even took it over and it was cut and wasn't done enough or significantly so it had to be cut then the second time and they gave him the drawings along with his application.

Mr. Horn asked when they did the second cut, why did they not cut back the pad so it also would be 2' back from the property line. He said they cut the driveway back twice so it would be in compliance but they didn't cut the pad back.

Mr. Zaito said that was the pad actually, that wasn't the driveway, the driveway was fine, it was more than two to three feet.

Mr. Horn said but it can't be cut back anymore because you wouldn't be able to use it.

Mr. Zaito said you really wouldn't, at 21' in that one spot it is pretty tight to pull into an 8' garage opening. He said he was certainly upset to know that he bought a property that wasn't done correctly.

Mr. Mark Schaefer of 7600 Cottonwood Trail and neighbor testified that they just want to say that they landscaped it with gravel in the middle so that it still enables them to turn around and they are okay with what has been done.

Mr. Murphy said you are a mirror image of that, this is the other side.

Mr. Schaefer said yes.

Mr. Horn said and you are 2' off right.

Mr. Schaefer said yes.

Mr. Murphy said so if in fact he were to cut back the extra 13" or 15" at this point it would just be your gravel that he would probably rake over to fill the extra 15". He asked if this company is still actively building in Bainbridge.

Mr. Zaito said he believes so.

Mr. Wrench said he has not heard anything lately.

Mr. Murphy said if the neighbors are okay with it.

Mr. Zaito said once he knew it was intruding he did everything he could to take care of it, he didn't cause any problems.

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

Motion BZA 2011-20 – 7610 Cottonwood Trail

Mr. Lewis made a motion to grant the applicant the following variance.

1. A variance on the side yard of the driveway to the property line from the minimum required 24” to 9” for a variance of 15”.

Based on the following findings of fact:

1. There is some history and practical difficulty that the applicant purchased the home that was already built and the driveway was already in so it was a pre-existing condition when he purchased the house.
2. The applicant has also shown an intent to seek conformity and did cut the better part of a foot off the driveway pad already to lessen the impact and has taken it as far as he can to still leave it practical to turn cars around and get into this side access garage.
3. In noting the neighbor’s property, the orientation does mirror it and the driveways run parallel and garages face each other so there is no view or aesthetic hardship on the adjacent property.
4. The adjacent property owner is also here and was comfortable with the situation as it stands so in the board’s eyes there is no adverse effect on the adjacent property.

Mr. Olivier seconded the motion.

Vote: Mr. Horn, aye; Mr. Lewis, aye; Mr. Murphy, aye; Mr. Olivier, aye.

Application 2011-21 by John B. Blatt for property at 8610 Chase Drive

The applicant is requesting an area variance for the purpose of relocating a shed. The property is located in a R-3A District.

The zoning inspector’s letter dated August 18, 2011 was read.

Mr. Todd Lewis announced that he is recusing himself from this application because he is an immediate neighbor. He did inform the applicant, Mr. Blatt that it will leave a three-person board this evening for this application and that is the majority that is required to approve a motion. He gave Mr. Blatt the option to proceed with the three-person board or to postpone.

Mr. Horn explained that Mr. Lamanna, who is the chair, is not here tonight but will be present next month so there will be five members.

Mr. Blatt asked if the request is denied if there is any due process.

Mr. Lewis and Mr. Horn explained the appeal process which is through the common pleas court.

Mr. Blatt said he is comfortable to go forward and any decision that is made, he will have to accept.

Mr. Horn presided over this application.

The zoning inspector's letter dated August 18, 2011 was read.

Mr. Horn stated that this is a request by the applicant, Mr. Blatt, to move a storage shed.

Mr. Blatt testified by saying yes.

Mr. Horn said Mr. Blatt has indicated that the shed in the current location needs to be relocated due to water issues and is seeking to move it so it is 15' closer to the property line.

Mr. Blatt replied yes.

Mr. Horn said the setback requirement is 50' so it would be 35' off the lot line.

Mr. Blatt said yes.

Mr. Horn asked what the height of the shed is.

Mr. Blatt said he thinks it is approximately 10' and added that he can give some background on it if the board is interested.

The board responded by saying yes.

Mr. Blatt said they moved into the house in June of last year and he thinks it was in August that he first got approval from the homeowner's association, the design of the shed is alright and they were okay with the color it was painted and it was close to and matched the color of the house. He said he agreed to provide screening once they got it up which he intends to do but what has happened since he put the shed up was he discovered that it is in the leach field and the property where it sits from the street back to where the shed is he is going to guess is about 250', but he also estimates that there is about an 8-1/2 ft. or an 8 ft. or maybe a 10 ft. drop and it is on the same side of the lot as where the driveway is and what he discovered is that when it rains and the snow melts, the water cascades down that driveway.

Mr. Horn said so it is an 8' drop from the road back towards the house.

Mr. Murphy referred to the contour lines and explained the 2', 4' and 6' and behind the house is 8' just visible.

Mr. Blatt said the other thing is that the properties on both sides, with the slope of that property, when it rains all the water comes towards the house and then it goes around the house and back onto the leach field but the properties on both sides are also higher than that part of the yard so that water comes in and there is a kind of like a natural drainage ditch in the back yard where a lot of the run-off from the houses above him run and it goes down to Rt. 306 to the wetlands and so he just found that the area just gets saturated with water so that is why he wanted to relocate it about 15' and it might be 17' and if the shed is 10' wide and he wants to move it 15', he wants to get it off the leach field. He said he had communication with the members of the homeowner's association and the president of the association came to the house on Sunday and they are okay with it. He said he has held off doing any screening though until he could get the issue with relocating it resolved. He said his most immediate neighbor, the closest to this is a woman by the name of Connie Eddy who is at a rehearsal dinner tonight, otherwise she would be here, because she is getting married but she did write a letter. He said she knows what he is trying to do and in fact in her letter it even says that she is okay if it is 30' from the property line. He said as it sits now, Mr. Wrench helped him locate it last year and it is exactly 50' from the line right now but he didn't know when he put it in there and having not lived there that long, with the drainage and the slope of the land, how much water goes into that backyard.

Mr. Horn asked him by moving it 15' if it will be out of the leach field area and where the water goes.

Mr. Blatt said yes it will because the ground goes up as you leave the leach field. He said the area where he could relocate it is amongst trees which would help with the screening. He said it sits so low now, he didn't put screening up and he didn't want to add a bunch of trees in the leach field but if you were to drive by the house, it sits low enough that for a lot of people it is not even that noticeable.

Mr. Horn asked Mr. Blatt if he had anything in writing from the homeowner's association reflecting their approval of this.

Mr. Blatt said no, there is a representative of the homeowner's association here and Joy Gallagher was at his house on Sunday and she was okay with it and he does have a letter from Connie Eddy if the board wants to see that.

Mr. Horn said no we really can't.

Mr. Blatt said she is unavailable this evening.

Mr. Olivier asked if this is a drainage ditch along the side there.

Mr. Blatt said he dug it out to try to channel some of the water to keep it from going onto the leach field.

Mr. Horn said you can see it on the other picture, to the far left there is a drainage ditch.

Mr. Olivier referred to a photo and asked if it is between the trees or in front of the trees.

Mr. Blatt said it would actually fit behind this tree right here (he referred to a photo) and it would go over 15' and back a little but it would go in behind this tree. He said he would estimate that the shed is probably 10' high.

Mr. Tom Hall, Peppermill Chase Homeowner's Association, testified that he is on the board of the association and per their original approval of the association, he was approved to move forward with the shed in the location that was marked off for them with the stipulation that he plant evergreen trees, shrubs and provide screening so the out-building cannot be seen from the road and as best as possible from his immediate neighbors, Connie Eddy so as long as he follows the original stipulation of the screening the relocation would not bother the association.

Mr. Horn asked Mr. Blatt if he were to be able to move it with approval, then put up that screening that the homeowner's association wants.

Mr. Blatt replied yes.

Mr. Olivier referred to the neighbor he is impacting and asked if that house is to the east.

Mr. Blatt said yes.

Mr. Olivier asked if it is all wooded.

Mr. Blatt said yes it is all wooded so the area that he would move is amongst trees and then there is that wooded area next to it as well.

Mr. Murphy said that zoning has just recently asked that when you put a shed on a lot with a house you try to locate that shed behind the house and so knowing that that entire area you are talking about behind the house is the leach field and low and wet and you can see that it climbs off to the right side, he can say the hardship is that and it doesn't help with any of the water issues with it sitting in the water and we have had a fairly wet spring that probably brought it to Mr. Blatt's attention more so than other times and added that he doesn't have a problem with it.

Mr. Horn asked what if it is farther back from the leach field.

Mr. Blatt said if you go farther back there is a common drainage area where the run-off is, for example Ms. Eddy's house sits much higher than his backyard and then her gutters and downspouts drain right beyond his leach field, there is a big pipe where all of that comes down and it goes through this drainage ditch that runs across his property and then down to Rt. 306.

Mr. Horn asked what would happen if it was put behind the drainage ditch.

Mr. Blatt said if you go behind that it is a very low lying area and then it starts to go back up but it is very, very muddy.

Mr. Olivier asked if that is a ditch in the center of the wooded area in the back of the property.

Mr. Blatt said no the ditch runs across the property, he doesn't know what those lines are, Mr. Wrench has been in the back yard but there is a pipe that comes down and just where his leach field ends is where her pipe dumps the water from the gutters.

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

Motion BZA 2011-21 – 8610 Chase Drive

Mr. Horn made a motion to grant the applicant the following variance for the purpose of moving a storage shed.

1. A variance from the minimum required side yard setback of 50' to 35' for a variance of 15'.

Based on the following findings of fact:

1. At its present location it is within the leach fields and in addition to which there are water issues from the adjoining property owners.
2. The applicant had gotten approval for moving the shed as requested by the homeowner's association and he is in agreement to put up screening that will hide the shed from the street view.
3. There are currently existing mature trees between the lot line and the shed.
4. This variance should be granted due to the topography of the lot and based upon the other circumstances mentioned.

Mr. Murphy seconded the motion.

Vote: Mr. Horn, aye; Mr. Murphy, aye; Mr. Olivier, aye.

Mr. Lewis returned to preside over the remaining applications.

Application 2011-22 by Mark D. Menary for property at 17840 English Drive

The applicant is requesting an area variance for the purpose of constructing a storage barn. The property is located in a R-3A District.

The zoning inspector's letter dated August 18, 2011 was read.

Mr. Mark Menary, applicant, was present to represent this application.

Mr. Lewis noted that the applicant is requesting to construct a 40' x 50' barn and it includes an 8' x 50' porch and apparently it does not meet the side and rear yard setbacks.

Mr. Wrench testified that it does meet the setbacks.

Mr. Lewis said it would just increase the lot coverage to 13.27% over 10% and there is some conversation about some other areas that can be reclaimed or restored to reclaim some of that.

Mr. Menary testified by replying yes. He said he will give the board a little bit of history to explain that property setback issue. He said quite a few years ago he talked to the previous zoning inspector and he had all of the information and he got his zoning permit and he cut down some trees to construct a driveway and was ready to build but then he had no job so he postponed it to the following spring at which time his neighbor to the south determined that Mr. McIntyre had made an error with the information he have given him. He said so what he did then was he came to the board of appeals to appeal to get a setback variance and that was denied so based on a couple of things and four kids approaching college, he put the idea aside. He said he kind of renewed the idea and would like to build a barn so what he has done is he talked to the neighbors to the south and assured them that he is not going to go there with the property setback issues so he is in compliance according to the information Mr. Wrench has given him with a 50' side lot and a 90' rear yard plus he is turning the orientation of the structure a different way and putting a porch on the front of it to kind of soften it. He said he talked to the neighbors to the south, the ones who were not happy the previous time and they are okay with this and he even offered them to help pick out a siding color or roofing color just to try to work that through. He said his goal is to take the various items that he has stored in the yard and put them in the barn and his goal is to have everything inside versus outside. He said as far as the structure, the size of it will be aesthetically pleasing because it is going be back in the woods tucked in amongst a whole bunch of 80' tall trees and the size of the barn is typical with what is on the street. He said the neighbors down the street have a barn for horses that is 45 to 50 feet or pretty close to that.

Mr. Lewis said this makes your second accessory structure on the property.

Mr. Menary said yes there is a small shed that was existing when he moved in which he uses for his lawn equipment and that sort of stuff but then he has the construction driveway so if it would help he could return that driveway to green space. He said it is a small shed but if it is one of the stipulations.

Mr. Horn asked if only one accessory building is allowed.

Mr. Lewis said two and one of the things he was looking at is a 40' x 50' barn is a pretty substantial structure and its got quite a bit of storage room in it so by removing the shed and it appears a gravel drive or some kind of access to it, by removing both of those, the driveway and the shed, we are going to reduce the lot coverage which is certainly going to make it easier on the board considering an increase in lot coverage and this will help reduce it meaningfully. He said he also looks at it as a chance to do a little bit of housekeeping because the shed is 17' off the property line.

Mr. Menary said that was pre-existing when he purchased the property.

Mr. Lewis said absolutely, positively but he is thinking, put up the big new structure, you are chasing aesthetics, it is making a contribution to the neighborhood and if we pick up a little bit of the access driveway and the older building, we can soften the lot coverage and we can bring your lot closer into today's conformity standards.

Mr. Menary said eliminating that shed is one of the options that he gave his neighbors to the south and he can respect the board's issue by making everything in compliance.

The board discussed what the lot coverage would be reduced to.

Mr. Horn said the lot coverage would be closer to 12%.

Mr. Lewis said he would be real comfortable with that.

Mr. Horn asked Mr. Wrench what the lot coverage would be if he removed the shed and the driveway.

Mr. Menary said his only reservation would be is what he has in the shed is what he needs to access all of the time.

Mr. Lewis asked if when the shed is gone if he is adding a driveway to his barn.

Mr. Menary said he put a construction drive to the back when this occurred before so he can move the lawn equipment to the barn and he can live with it but it will be a little hard for him not to have any paved area.

Mr. Horn said the board is being flexible.

Mr. Lewis said he is looking at that as a compromise because he is looking at to take away your lot coverage request would mean the easiest way would be to make your new barn smaller so he is very much in agreement with what Mr. Horn said, the board is looking at a half-way point that is a compromise and we are not asking for your real goal, your proposed barn, we are not asking for any modifications on that. He said the one question he has on the proposed barn, does the board have any renderings on it, how tall is this structure so he can get a sense of it in proportion to the house.

Mr. Menary said he has not submitted any plans for the barn, he was waiting.

Mr. Wrench said he was seeking approval from the board first.

Mr. Menary said it will be a gambrel style all with a lower floor and a loft.

Mr. Lewis said the number they are trying to get to is if the shed structure and driveway section is picked up how many square feet we regain so we can recalculate the lot coverage.

Mr. Wrench said he was looking at the write up and the existing shed is 300 sq. ft. but then he is looking at the dimensions on the drawing and it shows 26' x 14'.

Mr. Menary said he hasn't measured it.

The board discussed the dimensions and square footage of the structures.

Mrs. Betty Haberland of 8031 Bainbridge Road asked how far down this house is.

Mr. Menary explained that there is a corner house and a vacant lot and he is the next house.

Mrs. Haberland testified that there are the Baloghs and then the vacant lot and then you are the next one.

Mr. Menary said correct.

Mr. Wrench said the lot coverage would be 12.2%.

Mr. Olivier asked Mrs. Haberland if she would like to see the house on the GIS.

Mrs. Haberland said she knows where it is.

Mr. Horn asked Mr. Menary if the size of his lot is 1.5 acres.

Mr. Menary replied yes, actually 1.77 acres.

Mr. Murphy said in looking at the overall design, is there a reason why you (Mr. Menary) can't scoot it to the right just enough so that it is behind the garage.

Mr. Menary said it actually is going to be behind the garage. He said the original setbacks he got from Mr. McIntyre were 20' on the side and 50' off the rear so basically the driveway that comes in and turns into the garage, he extended the construction driveway straight back so it will go right into the barn. He said essentially what would have been the right front corner based upon those setbacks is now the left rear corner so it is moved over and forward so it is going to be parallel to the back of the garage and the back of the house.

Mr. Lewis said so that would be 59' off the side yard.

Mr. Murphy said in this particular sketch, here is the edge of the garage.

Mr. Menary said this is 59' and that is 50' and the only hardship there would be cutting down more trees and everything behind the house is just solid trees and he went with the 50' because that is what the current correct setbacks are.

Mr. Lewis said you have compliance.

Mr. Horn asked if the new barn could be ½ the size to make it compliant.

Mr. Lewis said right if we didn't offer a lot coverage variance.

Mr. Horn asked Mr. Menary if he had a storage barn that size if it would be suitable for him.

Mr. Menary said his intent is that is the size he came up with because he has some old cars and tractors and the idea is to get them inside and look in the back yard and see a nice country barn rather than having anything parked outside.

Mr. Lewis said he has a question to ask and it will be part of the motion and he just needs to establish in advance that this is not a business structure so you are not running a shop, restorations, commerce.

Mr. Menary said no, not at all. He said he taught his son how to build hotrods and it has been their family hobby.

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

Motion BZA 2011-22 – 17840 English Drive

Mr. Lewis made a motion to grant the applicant the following variance for the purpose of constructing a storage barn.

1. A variance from the maximum lot coverage of 10% to 12.2% for a variance of 2.2%.

With the following conditions:

1. The applicant will remove the shed on the southern portion of the property and the access driveway to it off the main existing driveway.
2. With regard to the removal of the shed and the access driveway those two elements would be removed by the end of the calendar year 2011.
3. Prior to construction of the barn the plans would be properly submitted to township zoning and all building permit processes with Geauga County and respective trades would be compliant.
4. There shall be no commerce or business activities taking place in this barn.

Based on the following findings of fact:

1. A little over 1% of the lot coverage will be reclaimed with the removal of the shed and the access drive to it.
2. This is a 1.5 acre lot in an R-3A zoning so it does pressure the lot coverage limits so it is adequate relief to accommodate this structure and still keeping it reasonably consistent with the adjacent properties.

Mr. Olivier seconded the motion.

Vote: Mr. Horn, aye; Mr. Lewis, aye; Mr. Murphy, aye; Mr. Olivier, aye.

Application 2011-23 by Paul Boers for property at 16725 W. Park Circle Drive

The applicant is requesting a conditional use permit for the purpose of establishing an auto repair and service facility. The property is located in a LIR District.

The zoning inspector's letter dated August 18, 2011 was read.

Mr. Lewis stated that the applicant wishes to relocate his business from 8269 E. Washington Street to the new address and is looking to establish a conditional use certificate and variance.

Mr. Paul Boers was present to represent this application.

Mr. Boers testified that the background on this is that Avalon Auto has been a hole in the wall suite behind the post office for 17 years now and he runs a nice little clean small operation and stays out of trouble, the Mattress Factory likes him and the postal workers like him but he has been renting for 17 years. He said he bought this building at 16725 W. Park Circle at a good price and his mortgage and taxes will be less than his rent has been, with the rent climbing and it is a free standing block building in the industrial park and he is not going to be doing any exterior modifications to it at all, he is just going to clean it up. He said the building has been vacant for about six years and he went in there and tore out a whole mess, it was entirely destroyed inside from water and mold and it was leaking, the gutters had been clogged for so long and what he understood was the only variance he is really applying for is the 3,000' rule and the precedence would be Bainbridge Auto Service and Fogarty right across the street from each other and right next to Colonial Auto with an empty lot between them there and everybody is within 3,000' of Highway Garage who has been there forever. He said he is moving further and out of the way and he is not going to do any gaudy signs or anything, he is going to match the signs with the signs on the street there and he doesn't work at night, he might go back to some Saturday mornings but he hasn't done that in a long time either. He said he doesn't work on cars outside and he doesn't leave anything dangerous, he has never had a fire call or a police call in 17 years there, he stays out of trouble and runs a low key quiet business, it is a family business, mostly word of mouth, he does one little coupon mailer and the rest is all word of mouth, customer base and he has customers that he has had for 37 years, that is how long he has been in the trade.

Mr. Horn said and it would still be within 3,000' of some of the other stations but you would be farther away.

Mr. Boers said yes, he is moving further and he doubts that the hole in the wall he is in now is going to get reused as an auto service place, it would be kind of unlikely that it will be rented. He said the post office with the tentative downsizing or moving out, he kind of suspects because the building is falling down, the roof leaks etc. and he thinks it needs to be knocked down and no matter what happens with the post office, if they stay, expand or contract, or completely move away, he has had six spaces and that is the parking out back, he is always chasing people out to protect his six spaces.

Mr. Lewis asked if the property he purchased is a stand-alone building on its own lot.

Mr. Boers said yes, about 5,510 sq. ft. and it is in line with all of the rest of them there, it is between the Schneider's building where they extended into W. Park Circle and that recently vacated architectural/mill worker, cabinetry guy that was there.

Mr. Lewis asked how much parking is there now.

Mr. Boers said more than half allowed.

Mr. Olivier asked if the lots are paved.

Mr. Boers said no, behind the building is gravel, overgrown and then there is grass in front.

Mr. Lewis said where we are going with this is that the conditional use permit is still attached to the property at which it would be occurring so it is not as simple as transferring your permit from one location to another, we still need to walk through the process. He said what is reassuring is that you (Mr. Boers) have been around for 17 years, you run violation free and you are quiet, you are not intrusive. He said he does want to walk through a few other things also and in looking at the existing certificate there were some conditions that really were related to your business, almost more than the property itself. He said he would like to walk through the conditions to find out if these are going to remain consistent with what we do here. He referred to the following conditions.

1. The number of vehicles parked for the business which include customers and employees will not exceed 15 per day and will be no more than six overnight.
2. The use will be limited to auto repair and will not include any body work.

Mr. Boers asked if that is outside.

Mr. Lewis said yes outside because the intent is that it is automotive repair and we know some vehicles are in and some are out, but the board still intends to limit how many vehicles are there overnight. He told Mr. Boers that he has his own parking so maybe the amount per day is not as relevant as how many are spending the night there because he doesn't think the board is looking to see a substantial accrual.

Mr. Boers said he does not sell used cars and he doesn't sit on a lot of scrap. He said he gets donations all of the time, cars that people wind up selling him to scrap out but they don't sit around long and the price of scrap is good so he turns them right over. He said he doesn't foresee there is going to be a surge but never anything consistent, nothing sitting around.

Mr. Lewis said he is approaching this that he doesn't really have a great deal of concern on how many vehicles are parked there each day because it is governed by the lot and those proportions are already in place. He said you (Mr. Boers) stated that the nature of his business and the scope of it really is you are not trying to make a change to it, you just want to relocate the building so he is still comfortable with the six overnight limit because the scope or magnitude of the business isn't really changing.

Mr. Horn asked what the square footage was that he was renting.

Mr. Boers said 4,000 sq. ft.

Mr. Horn asked what the square footage is of this building.

Mr. Boers said 5,500 sq. ft. and explained that it was divided up into three suites and he is going to use the third suite for storage, he has a couple of collector cars also and the ones he doesn't drive in the winter, it would be nice to have an emptier garage at home.

Mr. Horn asked Mr. Boers if he will be able to park the cars overnight behind the building.

Mr. Boers said eventually but right now it is incredibly overgrown and he hasn't gotten that far with this remodeling, demolition project to do that yet. He said yes, there is parking behind it but there are also some trees and the driveway comes in close to the building and you would have to turn right into the spaces and there are some trees there and he will have to take a lot of them out just so there is a little more visibility of the parking lot. He said he feels for security reasons, he has a night-drop box and a lot of times he will lock the keys in the car for people to pick up at night also and he doesn't want it entirely screened away from there for security reasons, he is going to light the lot, not obtrusively, but he can't really screen it entirely for that reason, people are not going to get out of their car in the middle of the night in that lot if it is not visible from the street. He said most of his jobs are in and out on the same day and he prides himself in that a lot and that is one of the things he looks very hard to do is to not drag it out. He explained his lifts and the way the purchase went, he is not expanding in the near future at all so that gives him a lot of flat stalls, he will have two flat stalls and then straight in the door parking also inside which he has not had at the old place there, you really have to shoe-horn them in there to get anything in there overnight.

Mr. Lewis said the board's position is we want to give some thought to this condition #1 whether or not we are going to change the quantities of 15 or the limit of six overnight.

Mr. Olivier asked Mr. Boers if he feels six overnight is sufficient.

Mr. Boers said he can live with that.

Mr. Lewis asked if seeing the limiting thing as a problem or just let the property stand on its own.

Mr. Horn said he doesn't see that he will have a problem during the day, it is the overnight and storage and would be comfortable with no more than 15 vehicles during the day and asked if it might be more.

Mr. Boers said it has been more, when he only had six places, he parked out back and at Schneiders.

Mr. Lewis said he does not want to suppress this business, he is only interested in the overnight storage and he is inclined not to put any limits on what happens during the day because that is going to be governed by the parking spots on the property and we hold at six overnight.

Mr. Boers said okay and he appreciates that.

Mr. Lewis said they still have a lot of points to cover. He continued with condition number 2.

2. The use will be limited to auto repair and not include any body work.

Mr. Lewis noted that that is still consistent and referred to item number 3.

3. All inventory parts and supplies will at all times be stored in the building.

Mr. Boers replied yes.

Mr. Lewis referred to item 4.

4. All trash, waste materials and used parts will be kept in dumpsters located in a designated area for that purpose. No more than one dozen tires at a time can be stored until they can be removed.

Mr. Boers said there will be no tires stored outside and that is one of the bad things he had, he had a little trailer that fills up in two weeks for storing tires at the old place, in a closed trailer, and all summer long he had to spray them to satisfy the health department so he is not doing that anymore.

Mr. Lewis said this is just kind of a property behavioral limitation.

Mr. Boers said you can change that to zero tires outside.

Mr. Lewis said you have alternatives already set up that are perfect.

Mr. Horn asked if the dumpsters will be located behind the building.

Mr. Boers said he only had one trash dumpster because the steel stuff is stored inside because if you leave it outside it gets stolen right away.

Mr. Lewis asked if it is scrapped for cash.

Mr. Boers said yes we make regular runs down to the steel scrap yard.

Mr. Horn asked if the dumpster is going to be behind the building, will it be an outside dumpster.

Mr. Boers said if it is an outside dumpster it will be straight across from one of the doors on the side there in a parking space that more or less would be the most convenient.

Mr. Lewis referred to item number 5.

5. No storage of automobiles or impounding of automobiles outside of the building will be performed as part of the use of the premises.

Mr. Boers said he doesn't have a tow truck and won't do it.

Mr. Lewis referred to item number 6, the last item.

6. No vehicle sales.

Mr. Boers said no.

Mr. Horn said it seems the first one was the toughest, after the first one you (Mr. Boers) were okay with the other things.

Mr. Lewis asked if there were any more comments from the board.

Mr. Olivier said Mr. Boers said there will be no material alterations to the exterior of the building.

Mr. Boers replied no, maybe someday he will expand straight back but at this point no.

Mr. Horn asked what the hours will be.

Mr. Boers said generally 8:00 – 6:00 (five days) and maybe 8:00 to 2:00 on Saturdays. He said he has a night drop box and he is going to have to illuminate that area well and he will probably put a little awning over it or something because it would be exposed to the rain or snow.

Mr. Lewis said and you are in a LIR District.

Mr. Mark Menary testified that he had no intention on participating on this, they just happened to be on the same agenda, but sitting here listening to it, he has to add to it. He said one of his jobs is being a Bainbridge Township Fire Inspector and the industrial park is his zone and his purchase of this building is a tremendous improvement for the township. He said there are no fire safety issues and he goes above and beyond any required code issues to bring the place in conformance and everything he has seen has never been a problem for us.

Mr. Lewis said nice testimony on how you (Mr. Boers) run your business.

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

Motion BZA 2011-23 – 16725 W. Park Circle Drive

Mr. Lewis made a motion to grant a new conditional use permit with the following variance.

1. A variance from Section 143.02(b) that states no part of such premises is located within 3,000 feet from any lot line of another lot of service station garage or repair use.

Based on the following findings of fact:

1. There has been a significant history of this business owner in our community at his current location.
2. Moving and relocating his business from being a renter to a property owner does not change the nature of the auto repair service business that is going to be conducted on this property.
3. It is consistent with all of the elements of this business for the last 17 years by this owner.
4. This is actually increasing the distance and lessening that variance and approaching closer and closer to conformity.
5. The nature of the new business location is actually deeper into an industrial park having no impact on Washington Street with its aesthetics and certainly has the privacy to run this business back there.
6. The applicant has also assured the board that the physical properties of this building are not going to be modified except for an awning.
7. Routine upkeep and signage updates will be consistent with what is there and/or already permitted for that property.

Motion BZA 2011-23 – 16725 W. Park Circle Drive - Continued

With the following conditions:

1. The number of vehicles parked for the business will be no more than six overnight.
2. The use will be limited to auto repair and will not include any body work.
3. All inventory parts and supplies will at all times be stored in the building.
4. All trash, waste materials and used parts will be kept in a single dumpster located in a designated area for that purpose.
5. No tires can be stored outdoors.
6. No storage of automobiles or impounding of automobiles outside the building will be performed as part of the use of the premises.
7. No vehicle sales.

Mr. Olivier seconded the motion.

Vote: Mr. Horn, aye; Mr. Lewis, aye; Mr. Murphy, aye; Mr. Olivier, aye.

Application 2011-24 by Kevin and Ruthann Gray for property at PP #02-175170 English Drive

The applicants are requesting area variances for the purpose of constructing a new single family dwelling. The property is located in a R-3A District.

The zoning inspector's letter dated August 18, 2011 was read.

Mr. Lewis noted that the applicant is wishing to construct a 2,600 sq. ft. single family home and is seeking some front and rear yard setbacks.

Mr. Gordon Wirick was present to represent this application.

Mr. Wirick testified that the applicant is not present and he is the home builder.

Mr. Lewis asked if there is a homeowner's association for English Drive or any guidelines with the association for setbacks etc.

Mr. Wirick replied no.

Mrs. Betty Haberland of 8031 Bainbridge Road testified that this property is owned by Mr. Boris Vladimiroff.

Mr. Horn said correct.

Mr. Lewis asked Mr. Wirik to tell the board about the house and the lot and the dilemma and the reason for seeking relief.

Mr. Wirik said actually it is been a lot that has been for sale in that neighborhood for quite some time and our customer is interested in purchasing it and right now they have an option to purchase it based on what happens here today. He said right now they are having some soil testing done for a septic so based on those two findings will tell if they go forward with the construction or not, or purchase actually. He said it is an odd-shape lot and there is nobody behind it right now and he knows that the homeowner is intending on keeping a good bit of the trees surrounding the home.

Mr. Horn asked if the lot is 215' deep.

Mr. Wirik said that is correct.

Mr. Horn said and Mr. Menary's lot (the neighbor) is 370' deep.

Mr. Olivier asked Mr. Wrench if the parcel behind it is connected.

Mr. Murphy asked if it is the backyard of somebody's lot on Bainbridge Road.

Mr. Wrench said right.

Mr. Wirik said the house won't be impacting on another home back there.

Mr. Olivier said with 190' total front and rear you could build a 25' wide house to be in compliance.

Mr. Wirik said they have had a tough time finding a plan that would work that the homeowner actually liked. He said he can't believe they got that lot through when the development went in.

Mr. Horn said it might have been before zoning.

Mr. Lewis said it doesn't seem feasible to build a 25' deep house and not offer some relief with front and back. He said the good news is that northerly off-set is 50' which conforms with a ton of space on the left. He said the side access drive comes in on the 50' side.

Mr. Wirik said correct.

Mr. Lewis asked if there is a preference as to why this is way right justified and not more.

Mr. Wirik said the left side is tentatively going to be the backyard because they won't have much backyard so this will tentatively become the play area for the kids and they will still have the trees.

Mr. Lewis said either way it seems to be a long way from the house to the north or the south.

Mr. Menary said he has not seen the layout yet.

Mr. Greg Balogh of 17820 English Drive testified that he lives to the north and asked what the side yard setback is on that and if it is 50'.

Mr. Lewis said right and it does conform to the zoning standards.

Mr. Balogh asked where the house will be.

Mr. Murphy asked Mr. Balogh where his house is.

Mr. Balogh said he is on the corner of Bainbridge and English.

Mr. Wirik said the southwest corner.

Mrs. Betty Haberland said that she hopes the applicant is familiar with all of the problems they have had on English Drive.

Mr. Lewis said that is probably another conversation.

Mr. Horn said that is probably why they are doing soil testing among other things.

Mr. Wirik said absolutely.

Mr. Lewis said the depth of the lot appears to present some practical difficulties because of the requirements of this area, the front and rear setback.

Mr. Horn said it is a 1-1/2 acre lot in three acre zoning.

Mr. Lewis said yes and he is looking at the fact that what fronts on the street is a road and what is behind it is heavily wooded and it is the tail end of a bowling alley lot on Bainbridge Road and the residence is already there. He said it is satisfying the side yard requirements at both ends and it needs to be a buildable lot and it is going to need some relief to get there.

Mr. Horn said the variance request is for the front and rear yard and the configuration of the lot.

Mr. Balogh asked what the typical setbacks are and aren't they 90' off the road.

Mr. Olivier said it is 100' in the front and 90' in the rear and they have only a 215' deep lot.

Mr. Balogh asked if it matters if the garage is attached or not and said he got around it because the garage was attached.

Mr. Horn said the garage will have to be 50' off the side yard.

Mr. Balogh asked and not from the street.

Mr. Lewis said at this particular point, it is attached and that is the front most portion of the structure.

Mr. Balogh said so the variance is what, 35'.

Mr. Lewis said no the variance would be 25' in the front because our code calls for 100' and this would be at 75' and then the rear is 90' so that would be 9' 4".

Mr. Balogh asked what the reason is they put it at 50' and is it because they want a yard back there.

Mr. Lewis replied yes.

Mr. Horn said the drawing says 80'-8" as the request but there is a portion of the structure that appears to be a little bit closer.

Mr. Wirik said what it was is the 80'-8", the homeowner changed it but the plan is potentially from that utmost corner.

Mr. Horn said so it is from that corner.

Mr. Wirik said they are adding a sunroom to the back and explained per the site plan what they were going to do originally and what the outermost point is which would take it to 80'-8".

Mr. Lewis asked if there are any additional comments.

Mr. Balogh said he is curious where the septic is going to be.

Mr. Wirik said it is looking right now that it is going to go on the 200' side, there is no decision rendered yet but it would be cattycorner off of that front corner.

Mr. Balogh asked if that will be an off-site discharge in a drain.

Mr. Wirik said that decision hasn't been rendered yet, they are in the middle of soil testing right now and just tentatively at this point it looks like it possibly could be a sand filter.

Mr. Balogh said he thought that was a stipulation on new homes now and asked if they still have leach fields in Bainbridge.

Mr. Horn said the county would have to approve anything that goes in.

Mr. Lewis said Geauga Health has got that.

Mr. Wirik said right, exactly.

Mr. Murphy said before it is approved they typically require that you not only have a leach field you also have a possible secondary replacement field and so other than some of the newer developments with three and five acre lots, typically 1-1/2 acres just isn't big enough to do that.

Mr. Wirik said it is a personal sanitation system.

Mr. Olivier said it is not required but the neighbor to the north would prefer it be a little further to the south but it is in compliance from the board's perspective.

Mr. Balogh said if they meet the setbacks.

Mr. Wirik said the drive would be at 25' at the most so trees that remain between that driveway and your property (Mr. Balogh) he is pretty sure that they are going to try to keep them.

Mr. Balogh asked Mr. Wirik if they are going to be doing the excavating.

Mr. Wirik said yes they would be doing the clearing and will mark the trees for clearing.

Mr. Murphy asked if the garage is a side entry.

Mr. Wirik said it is.

Mrs. Haberland asked if it is true that the septic tank has to be in the front of the house.

Mr. Lewis said the Geauga County Health Department will determine where they go.

Mrs. Haberland said there is one on Bainbridge Road that is not very far and they had to have it in the front of the house.

Mr. Lewis said with the soil and the topography of the property and the location of the structure, the builder works with Geauga Health and the county is going to decide where it is going to go and what its orientation is.

Mr. Wirik said they recommended the location on it but the final decision is the health department.

Mrs. Haberland said it used to be you could put it in the back of the house.

Mr. Horn said perhaps the builder has listened to what the neighbors indicated here and asked if, even though it is in compliance, perhaps moving it a little to the south.

Mr. Wirik said he is sure the homeowner would be open to discussing it but he guesses what happens with the septic and the well and if it is changed to make a sanitation system, then they could move it.

Mr. Lewis said the applicant is not here.

Mr. Wirik said he thought the builder was allowed to sit in for them and added that they have not yet purchased the property.

Mr. Lewis said it is conditional on approval.

Mr. Horn said if the board is not going to proceed, we should have done that at the beginning rather than now.

Mr. Murphy said but even if Kevin and Ruthann Gray were here, they are not the owners of the property right now either. He said the purchase agreement is written with Kevin and Ruthann Gray so if the sale doesn't go through, the variances are all null and void at that point.

Mr. Horn said that should be put in the motion that the variances are for these prospective purchasers.

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

Motion BZA 2011-24 – PP #02-175170 English Drive

Mr. Lewis made a motion to grant the applicant the following variances for the purpose of constructing a new single family dwelling.

1. A variance from the minimum front yard setback of 100' to 75' for a variance of 25'.
2. A variance from the minimum rear yard setback of 90' to 80'-8" for a variance of 9'-4".

Based on the following findings of fact:

1. A practical difficulty exists because the lot depth is 215' deep and the requirements currently are a 100' front yard setback and a 90' rear yard setback which only allows for a 25' depth of a structure which is not feasible or practical.
2. The setbacks that are applied to this are being applied to a 1-1/2 acre lot located in a R-3A District and the setback requirements front and rear are easy to accommodate on three acres and are certainly a challenge at 1-1/2 acres.
3. The structure has met full compliance on the 50' side yard setbacks even in lieu of being on a 1-1/2 acre lot.

With the following conditions:

1. This approval for this property is based on the purchase agreement that has been presented to the board and if that purchase agreement does not get finalized and happen then this variance will be rescinded and at such time that this property is under a new purchase agreement or the owner wishes to build something at that time, that they re-present and make all presentations to this board for review and approvals at that time.
2. Also as a condition because the applicant is in the middle of a purchase agreement not concluded that a final plan would be submitted to the zoning department at Bainbridge Township and all Geauga County building permit processes and trade filings are complied with and that would occur prior to the build start.

Mr. Olivier seconded the motion.

Vote: Mr. Horn, aye; Mr. Lewis, aye; Mr. Murphy, aye; Mr. Olivier, aye.

Since there was no further testimony, the public hearing was closed at 8:35 P.M.

Respectfully submitted,

Christopher Horn
Todd Lewis, Vice Chairman
Mark Murphy
Mark Olivier

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

Date: September 15, 2011

AUDIO RECORDING ON FILE

BZA PH 8/18/2011

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Bainbridge Township, Ohio
Board of Zoning Appeals
August 18, 2011

The regular meeting of the Bainbridge Township Board of Zoning Appeals was called to order at 8:35 P.M. by Mr. Todd Lewis, Vice Chairman. Members present were Mr. Christopher Horn, Mr. Mark Murphy and Mr. Mark Olivier. Mr. Michael Lamanna was absent.

Minutes

Mr. Lewis made a motion to adopt the minutes of the June 16, 2011 meeting as written.

Mr. Olivier seconded the motion.

Vote: Mr. Horn, aye; Mr. Lewis, aye; Mr. Murphy, aye; Mr. Olivier, aye.

Applications for September 15, 2011

Application 2011-25 by Brian Dezman for property at 17689 Westview Drive

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

Application 2011-26 by Anthony Paskevich & Assoc./Al Klauss for Katie & Mike Fox for property at 8394 Lucerne Drive

The applicants are requesting area variances for the purpose of constructing a new house to replace an existing residential home. The property is located in a R-3A District.

Application 2011-27 by Jonathan Baker for property at 8292 Summit Drive

The applicant is requesting area variances for the purpose of constructing an addition. 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 September 15, 2011 at 7:00 P.M. at the Bainbridge Township Community Hall, 17826 Chillicothe Road, Bainbridge Township, Ohio and unanimously resolved to request the Bainbridge Township Board of Trustees to issue a purchase order for legal advertising.

Since there was no further business, the meeting was adjourned at 8:42 P.M.

Respectfully submitted,

Christopher Horn
Todd Lewis, Vice Chairman
Mark Murphy
Mark Olivier

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

Date: September 15, 2011