

Bainbridge Township, Ohio  
Board of Zoning Appeals  
August 21, 2008

Pursuant to notice by publication and certified mail, the public hearing was called to order at 7:30 P.M. by Mr. Michael Lamanna, Chairman. Members present were Mr. Todd Lewis, Mr. Mark Murphy, Mr. Mark Olivier and Ms. Lorrie Sass

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

The following matters were then heard:

Application 2008-15 by John P. Williams for Bob & Kim Block for property at 16821 Snyder Road – Requesting Reconsideration

The applicants are requesting an area variance for the purpose of constructing a pole barn. The property is located in a R-5A District.

Mr. and Mrs. Block and Mr. John Williams were present to represent this application.

Mr. Block testified that this is a continuance due to new information and said hopefully the board all received a copy of the letter they gave Mr. Joyce and the photos that accompanied it.

The board members replied yes.

Mr. Block said they originally asked for a 30' x 40' storage shed, garage, and they asked for a variance allowing them to build 15' from the northern border. He said the board approved a 25' x 30' instead of a 30' x 40' and that is fine and 25' from the border and added that they asked for the variance due to the hardship because of the septic, the curtain drain and the leach fields. He said from the north boundary to the curtain drain is 49' so it has been recommended and you have a letter from Mr. Brian Schultz from Septic Services Company and he has recommended that we stay 10' away from the leach fields so with the granted variance, they have 25' plus the storage garage at 24' which puts them right on the curtain drain so they don't have room to be 10' from the septic. He said they are asking for the variance to be 15' away and added the storage garage will enter from the east and west with a service door on the south, it will not be affecting the north at all. He said their neighbor on the north has numerous Maple trees and showed a picture of that to the board, so their view will be limited and from the discussion of the last meeting, they have tried to move it up and down the entire property and it stays 49' no matter where they go but instead of being far back like they had originally planned because their neighbors had expressed a concern of being boxed in because they originally were going to have it here, (he referred to the site plan) and because they felt they were going to be boxed in because of the storage garage here (he referred to the site plan) and the deck there, they decided to move it up to right here (he referred to the site plan) and in the pictures, you can see

that there are a lot of Maple trees in this area so there would be a limited view from our neighbor's house to the storage garage. He said in addition, on the north side, they also plan on putting a number of evergreens to even limit the view even more so that is kind of where they are and that is why they are asking the board to reconsider the variance.

The board reviewed the variance request.

Mr. Lamanna asked how far it will be to the back line.

Mr. Block said they decided not to put it here (he referred to the site plan) because their neighbors did not want to be boxed in.

Mr. Lamanna said it has to be 90' anyway.

Mr. Block said correct so they are going to be about here (he referred to the site plan) in that area so that way because of the Maple trees here it limits the neighbor's view and plus they will not have a boxed in effect and that is why they decided to move it up and again, from the north boundary the curtain drain is 49'.

Mr. Greg Battaglia of 16805 Snyder Road testified that he lives just north of Mr. and Mrs. and Block and added that he brought some pictures and he has a large structure at the very back of his property line which he is okay with. He showed the board a photo and said this is the view out his back window of his kitchen and where they want to put that, he will see it. He showed more photos and said this is looking straight out and these are looking a little to the right and referred again to the structure off of his back property line of his neighbor behind him so he still will see it, it is just going to be closer to his site now.

Ms. Sass told Mr. Battaglia that he will see it anyway.

Mr. Battaglia said correct.

Mr. Lamanna asked Mr. Battaglia if there is a place where he would rather see it.

Mr. Battaglia said where they were going to put it, he was planning on doing some landscaping on that side anyway and they are talking about putting some large evergreens around the building plus with his landscaping, he is still going to see it no matter where it is, it is just going to be a lot closer to his site and further up.

Ms. Block submitted photos.

Mr. Lamanna asked Mr. Battaglia if he would prefer it farther back than closer.

Mr. Battaglia said farther back than closer.

Mr. Lamanna said it will be at least 90' from the back. He asked Mr. Battaglia how far the front of his pond is to the back of the property line.

Mr. Battaglia said he thinks it is at least 90' and maybe a little bit more than that.

Mr. Murphy said a month ago, we weren't looking for a backyard variance.

Mr. Lamanna said that is right.

Mr. Murphy asked instead of 90' from the back property line, where will it be put.

Mr. Williams testified that it will be about 140'.

The board discussed the proposed location of the building.

Mr. Lamanna said it is moving 10' closer to the side line so under those circumstances, he would be inclined to keep it as far back as it can be because it would be less of an issue farther back.

Ms. Sass said it is less of an issue farther back unless you are enjoying the pond.

Mr. Lamanna said the neighbor said he would rather have it in the back instead of the front.

Mr. Block said it did not matter to them, we just decided to do that because they had a concern last time of being boxed in and we just felt that being right here (he referred to the site plan) it would make them feel more boxed in.

Mr. Lamanna asked Mr. Battaglia where he would like it.

Mr. Battaglia said the furthest back he can get it.

Mr. Lamanna asked Mr. Block if it was okay with him.

Mr. Block replied yes.

Mr. Lewis said to go 15' off the north border you are going to put screening up and added that the board is trying to calculate the overall height of the building.

Mr. Williams said it will be 15'.

Mr. Lewis said the original proposal was 30' x 40' but now it is downsized, and asked how tall the sidewalls are because you could make them 12' tall and add the pitch on top of it and end up with 17'.

Mr. Williams said no the sidewalls are 10'.

The board discussed the proposed height with the walls and overhang.

Ms. Block said the evergreens will be in correlation with the landscaping so that is not a problem.

Mr. Battaglia asked how far off of his property line, the north property line will it be and if it is still 25'.

Mr. Lamanna said it will be 15' because of the septic location.

Mr. Lewis said we lost 10' because we cannot come within 10' of the leach fields.

Mr. Battaglia asked where that will put the building now.

Ms. Block said 15' off the line.

Mr. Block said they want to keep the tree a couple of feet past it.

Mr. Lewis asked about the height of the proposed evergreens with a 15' tall building and the gutter will be 10' up in the air.

Mr. Williams said he can buy them at 4' now and they can grow to 17'.

Mr. Lewis said he does not have the expectation of 20' trees but he does have the expectation that we are not starting with very small trees.

Ms. Block said they don't want the branches growing over the boundary either because they will have those hacked off so they want to make sure they are where they should be.

Mr. Lewis said you have 15' of diameter and there are a lot of varieties of trees.

Mr. Battaglia asked about the driveway and water run-off.

Mr. Lewis asked if there will be gutters and downspouts and where will the water be directed.

Mr. Williams said yes there will be gutters and downspouts.

Ms. Block said it slopes from north to south.

Mr. Lewis said so the water that runs off on the roof on the north side of the property, it will be trapped with a gutter and downspout and then the water will be routed south.

Mr. Williams said yes because the curtain drain is right there.

Ms. Block said the natural flow of the neighborhood goes that way.

Mr. Williams said unless he wants us to run it into his pond.

Mr. Jack Carson said you can't dump the water into the curtain drain.

Mr. Williams said it will be dumped on the ground.

Mr. Carson asked if that will be right over the leach fields.

Mr. Murphy said they are getting rid of 120 sq. ft. of grass so they will have 120 sq. ft. of water, it will come down, go onto the grass and it flows wherever it flows and unless there is a storm drain that is the way it typically works on every lot. He asked Mr. Battaglia if they offered to give him that rainwater directed in a pipe to his pond if he would be interested in that.

Mr. Battaglia said no.

Mr. Murphy said then it goes on the lawn unless the Geauga County Building Department has changed things.

Mr. Battaglia asked about the driveway.

Mr. Murphy asked if the driveway will be asphalt or gravel to the barn.

Ms. Block said they are not sure.

Mr. Block said that is the only thing they are not sure of, but originally it was gravel.

Mr. Battaglia asked how far off of the property line can a driveway be.

Mr. Lamanna said as close as 2' off and he doesn't see any reason why the driveway should be any closer than the building is.

Ms. Block said it will be in the center of the building.

Mr. Block explained the location of a tree and said they were thinking of going around the tree to save the tree.

Mr. Lamanna said the house is probably 40' – 50' away anyway.

Ms. Block said yes.

Mr. Lamanna said so it will be 15' away.

Mr. Block said they will definitely be more than that.

Mr. Murphy asked if it will be an asphalt driveway.

Ms. Sass said or gravel.

Mr. Block said they are not sure.

The board discussed the lot coverage.

Ms. Sass explained the process of submitting a new site plan, the waiver etc.

Ms. Block said they will build it in the spring if they cannot get to it this fall but they are hoping before winter.

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

#### Motion BZA 2008-15 – 16821 Snyder Road

Mr. Lamanna made a motion to reconsider the board's previous decision and modify the previous decision as follows:

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

With the following additional conditions to be applied:

1. The building will be located so that the back of the building is no more than 100' to the rear property line.
2. The maximum height of the building will be 15'.
3. The building will have gutters to collect rainwater and discharge it so that it flows to the south onto the subject property.
4. The driveway will be no closer than 15' to the side property line.
5. The applicant will submit a new site plan reflecting all of these matters.
6. With the respect to the size of the screening, it will be at least 5' tall.
7. All of these conditions are imposed in order to ameliorate the significant impact on the adjacent property owners and without these conditions, this variance would not be granted.

Motion BZA 2008-15 – 16821 Snyder Road - Continued

Based on the following findings of fact for granting the additional side yard setback:

1. The board has had a more accurate determination of the location of the septic system and without this setback the applicants would be unable to construct this out building because it would be too close to the septic system.

Mr. Lewis seconded the motion.

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

Application 2008-16 by Edward D. Ricker for property at 18111 Kenston Lake Drive

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

The zoning inspector's letter dated August 21, 2008 was read and photos of the site were submitted.

Mr. Edward Ricker referred to the aerial map and testified that he has a storage building which the floor has rotted out on and he would like to replace it. He said the situation he is dealing with, if you look at the property, you will find that there is very little open space on top of the hill, he has banks all around all three sides of his property and Kenston Lake being one of them. He said he is 400' back from the road and right in this area (he referred to a map) is where the existing shed is and the variance he is looking for, and he sees the write-up isn't quite right, he submitted it as 31' from the township property with a 16' wide piece of property that includes his driveway and he has 16' here and 16' there (he referred to a map) and what he submitted was off this back boundary line (the township boundary) is 31'. He said it means that from this lot boundary (he referred to a map) is 15' and 11' in from this boundary (he referred to a map) but from the other homeowner which is Mr. Riley here, he is an extra 16' back and all of that is heavily wooded and there is a very heavy ravine in that area and the reason he can't move the shed forward is there is a natural run-off from the township property running down going through here (he referred to a map) to a deep hole there that used to be a pond. He said it is very hard for him to set that structure in that area with the current zoning so that is why he is asking for a variance so it is really not 31' it is really 15' here because of the way this middle was put together and he can show the board the plan and said you can see that it is 31' from here (he referred to a map) but you can see a 16' boundary.

Mr. Olivier asked if the driveway is a separate parcel.

Mr. Ricker said yes exactly and what the deal is, when Mr. English divided up the property, this was association property for Kenston Lake Homeowner's Association, they offered it to the people and they said they did not want to buy it so what he did is he sold the 1-1/2 acre lot and then he took the other lot and sold it to a person and put an easement on it so the easement was for access to the property that is owned here by the Kenston Lake Homeowner's Association, it is for their access for recreational use of that property in the back and so that is why that is a different deed because if there was an easement for them to go all the way down his driveway and if it was one lot then they could just walk right here to the property right through his lot so that is why it is segregated and this is the only one that accesses their property. He said no one uses it because that goes way down to a ravine.

Mr. Lewis asked if the easement is titled to the homeowner's association or to you (Mr. Ricker).

Mr. Ricker said the easement is to the homeowner's association and explained that it is a different parcel and the 1/2 acre parcel is a 400' driveway and a 16' border and it would not affect any of the township property or relevant to Mr. Riley, his house is way down here and we are way back and no one can see the structure at all. He said he has a hill there and this is the ideal place to put the structure.

The board discussed the easement.

Mr. Lewis said it doesn't change the setback border on the property and his understanding is you just can't build within it.

Mr. Lamanna said if the two lots can be merged together, that area would still remain subject to the easement.

Mr. Ricker said when the lake goes, the association is planning on selling off the property and he is planning on buying some of the property and therefore at that point when they sell that property, there will be no reason for the easement.

Mr. Lamanna asked if the easement will be terminated.

Mr. Ricker said yes.

Mr. Lamanna asked if that piece of property will be carved up.

Mr. Ricker explained that there are three homeowners up along the side and the location of his property.

Mr. Lamanna said when this happens the board asks in that point of time if these lots can be merged together as a single lot.



Ms. Sass said that makes sense.

Mr. Ricker said he would have merged them initially and given them an easement for a path but Mr. English said no, we are not doing it that way, we are doing it this way and added that he has two tax bills now so he does not want another one.

Mr. Lamanna asked if this is going to be 31' from the one line and 29' from other.

Mr. Ricker said right but for this parcel it is really 11' back and 15' over.

Mr. Murphy asked how much acreage is in the Kenston Lake.

Mr. Ricker said 4.5 acres and added that it is a real odd shape.

Mr. Lewis said to Mr. Ricker that he thought his property went out into the lake.

Mr. Ricker said yes.

Mr. Lewis asked if there is any portion of that lake that is really common or do all of the adjacent properties go into it because when the lake is drained the property is already owned, it is just not under water, so what is to sell off.

The board discussed the lake and the surrounding parcels.

Mr. Murphy said it is landlocked other than the fact that Mr. Ricker owns the driveway which is not contiguous.

The board discussed the contiguous property owners including the Campana (township) property.

Mr. Ricker said there are three homeowners that are interested in the one-half acre parcels behind them.

Mr. Lamanna asked for clarification of the easement strip. He said it is 29' to the Riley line minus 16' equals 13'.

Mr. Ricker said he is not sure exactly.

Mr. Lamanna said he wants to be sure and correct. He asked if there is anybody else interested in this application.

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

Motion BZA 2008-16 – 18111 Kenston Lake Drive

Mr. Lamanna made a motion to grant the following variances for constructing a storage building, the type and size as shown in the application.

1. A variance from the east side of the subject property from 50' to 15' for a variance of 35'.
2. A variance from the boundary on the south side to 100' as a front yard to 11'.
3. A variance from the provision regarding structures in the front yard in front of the principle residence.

With the following condition:

1. The applicant will merge his two lots together with the property he is planning on acquiring to the north of his property line at such time as he makes that acquisition.

Based on the following findings of fact:

1. A practical difficulty exists because the applicant actually owns two lots which creates the issue with the front yard setback because of the separate nature of the lot that grants access to his lot.
2. His lot is also a flag style lot that is a long narrow approach to the main part of the lot.
3. The storage building will be a substantial distance from any of the neighboring dwellings.
4. Due to the nature of the terrain, it cannot be moved in closer to the house because of other drainage factors.
5. It will not adversely affect the neighboring properties nor will be inconsistent with the neighborhood.

Ms. Sass seconded the motion.

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

Application 2008-17 by Highland Construction for Ian & Shari Roche for property at 7070 Bramshill Circle

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

The zoning inspector's letter dated August 21, 2008 was read and photos of the site were submitted.

Mr. Ian Roche, homeowner and Ms. Nora Smith and Mr. Evan Smith of Highland Construction were present to represent this application.

Mr. Roche testified that in looking at the picture it shows the ability process for them to be able to build the pool and allow them full use of the property as opposed to building it straight out off at an angle perhaps. He said the board can see it from the pictures and added that he is not technically proficient in these areas but as he understands it the reason they built the pool this way as opposed to any other way as represented by the pictures that Mr. Lewis has is that it had something to do with the ability for the full use of the property and it was explained to him that a variance would allow them to maintain full use of the property so they built straight out towards the road.

Mr. Lewis referred to the photos and asked if this much of the structure is already done.

Mr. Roche replied yes.

Mr. Lewis said and it is in violation of our zoning code and asked if the builder is here.

Mr. Roche replied yes.

Mr. Lewis asked the builders if they got a building permit to put this structure in before construction began.

Ms. Nora Smith testified by saying yes, from Geauga County.

Mr. Lewis asked if they had it with them.

Ms. Smith said she did not.

Mr. Lewis said he would like to see that.

Ms. Sass said the board needs to see the building permit.

Mr. Wrench testified that you cannot get a building permit without a zoning permit.

Ms. Sass said correct and added that that is the building department's policy.

Mr. Lewis said the cart before the horse.

Ms. Sass said the board would like to see the building permit and added that this is some pretty expensive construction.

Mr. Olivier said normally the zoning permit precedes the building permit which allows the pool where you are building it and a variance is granted in advance of the ground being broken and the pool being constructed or the board can deny the variance and you don't build the pool in that location but at this point, the pool has been built in advance of the board granting a variance for the setback and there may not be a building permit.

Mr. Lewis said typically one department will not conflict with another department which means that to get a building permit they are going to want to see the zoning approval certificate that the location complies so that is why the board is asking for the documentation that any components before construction was started or whether all of the processes were circumvented. He asked who Highland Construction is.

Mr. Evan Smith testified by saying he is.

Mr. Lewis asked if he would have pulled the building permit.

Mr. Lewis asked Mr. Roche if he is the homeowner.

Mr. Roche replied yes and said this is the son and daughter of the owner of Highland Construction (Nora Smith and Evan Smith).

Mr. Lewis said the board is trying to establish the role of the construction company and the board understands you want the board to consider a variance about the location of the pool but right now the board is probably real interested in why construction started in the manner of which it did and we want the documentation to go with that and you say you do have a building permit so the board would like you to produce that.

Ms. Sass asked Mr. Roche if he had a contract with Highland Construction.

Mr. Roche said yes and as he understands it he did receive a call from the township stating that they had to drop off a copy of the contract in addition to some other documentation and he remembers getting an envelope in the mail that was supposed to be posted and as he understood it, it was taken care of.

Ms. Sass asked by them (Highland Construction).

Mr. Roche said correct.

Mr. Lewis asked if the contract clearly stipulates who pulls permits.

Ms. Sass asked if the board has a copy of that contract.

Mr. Wrench submitted a copy of the contract to the board.

The board reviewed the copy.

Mr. Lewis said this is page 10 of 10.

Ms. Sass said the board needs to see the whole contract.

Mr. Lewis asked where pages 1 through 9 are.

Ms. Smith said they were told to just submit the back page but they do have the rest of it.

Mr. Lewis asked if Highland Construction has done other work in Bainbridge Township prior to this client.

Mr. Smith said he does not believe so.

Ms. Sass asked in other townships if they typically pull zoning permits in addition to building permits.

Mr. Smith said he is not positive because his father is more into that than he is.

Mr. Roche submitted the contract to the board for review.

Ms. Sass reviewed the contract and said the customer must apply for an operating license. She read from the contract which reads "Current construction of customer's agent shall obtain for the customer a building permit for the construction stated on the contract. Customer shall be responsible for obtaining any certificates of occupancy, zoning variances, operating licenses, plot plans, test boring, percolation tests etc". She said the construction company pulls the building permit and the customer is responsible for the zoning permit.

Mr. Lewis asked how you are going to get a building permit without the zoning department approving the placement or that an appeal for a variance would be required.

Ms. Sass said the board needs to see the documentation.

Mr. Lewis said he is leaning towards tabling this.

Mr. Roche asked how this happened.

Ms. Sass explained that she used to represent both the building department and zoning department when she was at the prosecutor's office and the building department does have a policy of not issuing building permits unless there is an exemption such as an agricultural exemption and they do have a policy of needing to see that zoning certificate before allowing the building permit to be issued.

Mr. Roche asked the board what they need to see from him and the construction company.

Ms. Sass said the Geauga County building permit.

Mr. Lamanna said and the application for it.

Mr. Smith submitted the application and the check stub or receipt for the building permit.

Mr. Lamanna asked if there was a drawing that went with this and asked if the building department dropped the ball on this.

Ms. Sass said the contractor did fill their obligation and it may be an issue for the building department and we still have the issue of the zoning permit.

Mr. Lamanna said if there was a drawing that went with this, where is the drawing.

Ms. Smith said there should have been a whole set of plans.

Mr. Murphy asked how wide the homeowner's association strip is.

Mr. Roche said he does know that the pool actually ends (he showed the board on the aerial map where the pool is sitting on the property).

Mr. Murphy asked if there is anybody here from the homeowner's association.

Mr. Roche said no, they approved it.

Mr. Lewis asked Mr. Roche if he had that document.

Mr. Roche said no and he thinks it was just voted on at the meeting that was here.

Mr. Lewis asked if it is in their minutes.

Mr. Roche said he does not know, but would imagine it is.

Mr. Lewis said the board needs a statement to that effect and added that the board is not picking on the applicant but we need to be sure we are not in conflict with deed restrictions and by-laws of a homeowner's association and there are sets of standards that the board looks at as well.

Mr. Lamanna said they are concurrent requirements, their approval doesn't change that we have to get approval and our approval does not change the fact that you have to get their approval.

Mr. Roche said he does not know why they had to apply for one.

Mr. Lamanna explained that there is a 90' setback requirement and this is at 74' so it is 16' closer to the rear lot line.

Ms. Sass asked for an explanation when Mr. Roche said he could not have full enjoyment of the property without it.

Mr. Roche said the kids and everybody like to play in the woods around the corner and that was basically the easiest way to put the pool and still have property and enjoyment on the side there and to enjoy the lower right side and also the property here (he referred to the aerial map) and said the pool sits right here and this way they can do everything they want to do right through there. He said he has a five and a three year old.

Mr. Murphy asked about the property owner to the left and if the next adjoining property is in Solon.

Mr. Roche said that is correct.

Mr. Olivier asked if there is any common area on the Solon property to the left there.

Mr. Roche said he has no idea.

Mr. Lamanna said he is concerned as to why it did not get picked up.

Ms. Sass said it was after the fact.

Mr. Lamanna said it does not look like they misrepresented themselves.

Ms. Sass said she does not think that is the issue at all.

Mr. Roche said these are good people and sorry to have caused a problem for you.

Mr. Lamanna said there is a process and when the process doesn't work, the board wants to understand why the process didn't work so that we can make sure in the future that it does work.

Ms. Sass said she has also been involved in cases and in-ground pools are a pretty substantial build-out so that after the fact the variance was denied and we required the property owners to dig out the pool so she is not terribly receptive at first blush to say this is already in so the board will look at it more favorably and that does not sit well with her at all. She added that she would like to see that building permit.

Mr. Lewis said yes and the approval from the homeowner's association in writing.

Mr. Olivier asked if the board can see the minutes or an approval letter.

Mr. Roche asked who he should submit them to.

Ms. Sass said he can submit them to Mr. Joyce, the zoning inspector in advance of the next meeting or at the next meeting.

Mr. Lewis said the construction should probably be ceased until this is resolved.

Mr. Roche said yes.

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

Motion BZA 2008-17 – 7070 Bramshill Circle

Mr. Lamanna made a motion to continue this application to the next regularly scheduled meeting to be held September 18, 2008.

Mr. Lewis seconded the motion.

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

Application 2008-18 by Robert Hradek for Maureen Mason for property at 17532 Merry Oaks Trail

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

The zoning inspector's letter dated August 21, 2008 was read and photos of the site were submitted.

Ms. Maureen Mason and Mr. Robert Hradek were present to represent this application.

Ms. Mason testified that she is the homeowner and she lives in Tanglewood Lake at 17532 Merry Oaks Trail and earlier this summer she got involved in what she thought would be a pretty simple project to replace an old deck in her backyard. She said the deck was built by a previous owner and is 15 years old or maybe a little older but at least 15 years old and it was built with wood and in bad shape so she went and proceeded to replace it. She said the new deck was basically to be built in the exact footprint of the old deck with only two minor changes, it would be built on one level, it used to have multi-levels, there were two different levels on the old deck and we just did it on one level and she had it built out of composite material instead of wood but otherwise it is the same footprint as the old deck.



Ms. Mason said she contracted with Robert Hradek Construction and he is here to talk a little bit about it but as they got into it they started working with the township and found out there was a problem and apparently the previous homeowner just went ahead and built it 18 years ago and never applied for any kind of paperwork of any sort. She said the old deck is in violation of the rule that it has to be within 15' of the boundary of the property line so basically when they talked to the township and explained and modified it the best they could. She added that on the south side there are very tall shrubberies and they have been there a very long time, probably about 7' to 8' high and they pulled it in about 3'.

Mr. Hradek testified that it is 5' past the south wall of the house.

Mr. Olivier asked what it was prior to that.

Mr. Hradek said the original deck that was installed was 8' off the side of the house and the new one will be 5'.

Ms. Mason said they pulled it in as far as they could to make it look decent.

Mr. Olivier asked if they know how far it is off of the side line.

Mr. Hradek said they are 10' – 11' or more but there are a lot of shrubs and trees so it is hard to get an accurate area of where the lot line is, it is kind of hard.

Ms. Mason said she went out there and measured and it is around 12' off the lot line.

Mr. Olivier told Ms. Mason he was in her backyard yesterday because he hit a golf ball in there and noticed that the shrubbery is extremely dense.

Mr. Murphy asked how far the corner of the house is off the property line.

Mr. Hradek said they did get approval from the homeowner's association.

Ms. Mason said they came out and looked at it, there were no problems, so they gave me a letter.

Mr. Olivier asked if they agreed to the 3' reduction.

Ms. Mason said no, before they started, they came out and looked at it and wanted to see where she was putting it and they actually pulled it in since then, and then we found out there was a problem.

Mr. Olivier said it is completely invisible to the neighbor to the south and that house has been vacant.

Ms. Mason said it has been vacant for nine years.

Mr. Olivier said it is a deteriorated property.

Ms. Sass asked Ms. Mason if she said nine years.

Ms. Mason said yes.

Mr. Olivier said he used to live across the street.

Ms. Sass said so we don't have a neighbor complaining.

Ms. Mason said no.

The board reviewed the variance request.

Ms. Sass asked if the vacant home is owned by a person and not by a bank.

Ms. Mason said it is owned by a person.

Ms. Sass asked if the person who owns the property is the person who owned the property when the deck went up.

Mr. Olivier said he thinks she is the original owner.

Ms. Mason said it is an elderly woman that took ill and the family kept the house and the woman no longer lives there and she has owned it 30 some years.

Mr. Olivier said she is the original owner.

Mr. Lewis said from looking at the site plan, he just wants to make sure he understands, it appears that the house is probably 15' off the side yard because that was Tanglewood's standards and then if he is looking at the site plan that the deck comes 8' beyond the house.

Ms. Mason said the deck is estimated to be 12' off the property line.

Mr. Lewis asked how far past the house.

Ms. Mason said five feet.

Mr. Lewis said so that leaves around 10'.

Mr. Hradek said the closest part of the house to the property line is the chimney.

Mr. Lewis said if the board would have caught the horse before the cart, the board probably would have suggested it stay within the side shoulder of the house, no closer, so the board has to deal with the board's position on the five feet and whether there is adequate screening in between where the deck ends and the adjacent property because the deck is built unless they reduce the size of it.

Mr. Murphy said there could possibly be some issues with the property line and if it has been surveyed because if in fact the deck could be on your neighbor's property.

Ms. Mason said no, the lady, when she first moved there, put up a few trees and indicated that that is the property line.

Mr. Murphy said as much as he would like to say this is perfect the way it is and he has no problem with it, it would be wrong for the board to approve it when in fact it is already two feet over the property line so without knowing where the property line is, it puts the board in a bind.

Ms. Mason said she believed that when she bought the house and she does have a survey.

Ms. Sass said she would not have to have another one done.

Ms. Mason she would not have bought the house without a survey and she is sure she has it.

Ms. Sass said the board would like to continue this application and give the applicant a chance to bring that survey in and show it to the board so we can be sure.

Mr. Olivier told Ms. Mason if she doesn't have a survey to just get that line surveyed and they might be her trees and added that the board does not want to grant something that could be over the line.

Mr. Murphy said without knowing it is hard for the board to say okay.

Ms. Mason said even the deck has been there for 18 years, this was back when the people were living next door and it was old when she bought the house 10 years ago.

Mr. Lewis said if the board is going to grant a variance, the board's baseline is the distance from the side of the house to the property line and then from there and we know exactly what that is finite and the deck is 5' beyond, then the board can work on a variance with very accurate dimensions.

Ms. Sass told Ms. Mason that it will only serve to protect her in the future.

Ms. Mason asked if she has a survey, the board wants to see a copy of it.

Ms. Sass replied yes and said again for her records and protection, if this family does in fact sell it and she gets somebody who is a little difficult to deal with, she will be protected.

Ms. Mason asked the board if they will grant the variance once it is determined to be 10' to 12' off the property line.

Ms. Sass explained to Ms. Mason that the board legally has to make a finding of practical difficulty but there are practical difficulties that exist on the property that would prohibit her from being in compliance with the zoning regulations and that is the test the board has to apply. She continued by saying that in this particular case the long standing existence of the deck in all likelihood violates zoning without any kind of indication for that period of time.

Mr. Olivier said the non-conformity was increased.

The board discussed the existing deck which was already built with composite material.

Mr. Lewis said it is already built so without asking them to modify what is already built, the board has to be good on the dimensions.

The board discussed a proposed survey on the one side and the variance requested and was in agreement to continue this application to next month.

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

#### Motion BZA 2008-19 – 17532 Merry Oaks Trail

Mr. Lamanna made a motion to continue this application to the next regularly scheduled meeting to be held September 18, 2008.

Mr. Lewis seconded the motion.

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

#### Application 2008-19 by James D. Evans, Architect for Dunkin' Donuts for property at 16780 Chillicothe Road

The applicant is requesting area variances for the purpose of constructing a new Dunkin' Donuts. The property is located in a CB District.

The zoning inspector's letter dated August 21, 2008 was read and photos of the site were submitted.

Mr. James Evans and Ms. Elizabeth Eaken of James D. Evans, Architects and Mr. Ken Blum of Dunkin' Donuts were present to represent this application.

Ms. Elizabeth Eaken testified that she is an architect with Jim Evans Architects and she wants to make sure everyone is familiar with the property that they are talking about, Nash's Restaurant. She said when they started looking at this project the first thing they always do is go to the zoning and research the setbacks and in fact on this property, if they follow the zoning code setbacks, she referred to the red area on the site plan, this is where they would be permitted to put a building. She referred to the site plan again and noted the areas they could put paving, a building and more paving and everything else would need to be green and said as you can see basically it makes the site unbuildable or unusable. She said the way they approached it is they just looked at what seems reasonable given the surrounding area and what would typically be in other jurisdictions with reasonable setbacks so the way they approached it, they maintained the front yard setback by keeping the building back further and there is a 70' setback in the front and they are beyond that. She referred to the Shell gas station which is commercial and referred to the residential area to the south and said they brought up the side yard setback and putting the parking in here (she referred to the site plan) which is also commercial and showed on the site plan a location for more parking and said there is more of a buffer to the residential side. She said in terms of the lot coverage from what was there to what is there now, they are moving directionally correct in that they have 5% less lot coverage in the new design as is existing now. She said they are providing more seeded area, more landscaped area at the Chillicothe Road area and now there is very little green, just the little tiny island and they are showing a lot more here. She said currently the south drive actually encroaches into the residential property next door, so we pulled it up and got it to all fit within this property. She said in terms of the setback, they tried to address it and the building setback on the residential side is about 31' 8" and they did what they could to try to fit it in there.

Mr. Olivier asked what the setback is now to the residential.

Ms. Eaken said she does not have it on the site plan and certainly the existing Nash building is further away.

The board reviewed the site plan.

Mr. Lewis said it is 50'.

Mr. Lamanna asked how this proposed building size compares to the existing building.

Ms. Eaken said the new building is almost 5,000 sq. ft. and a little bit under but she does not have a square footage number on the existing building.

Mr. James Evans testified that his opinion is they would be very similar in size and believes those drawings are to scale so they have got to be pretty close.

Ms. Eaken said there is also a little two story frame building in the back.

The board discussed the site plan.

Mr. Evans said their intention is, it is commercial zoning and they are trying to do a nice project for Bainbridge and they have to have a certain amount of square footage to do the deal obviously and Dunkin' Donuts needs a certain amount of square footage and they need a little more square feet for another tenant too so it is a matter of economics and will need 2,700 sq. ft. for another business such as for lawyers or architects etc.

Ms. Eaken said their lot coverage is less than it is currently in terms of hard space.

Mr. Lamanna said it looks like the buildings are comparable, the two other buildings look like they are about 4,900 sq. ft. and this one looks like 4,900 sq. ft. but the board looks at both lot coverage and structure because someone can reduce the lot coverage but make it twice the structure and that is really a pretty significant change to convert what may be a paved area to a building, that is why he wanted to get an idea and it looks comparable.

Mr. Evans said the challenge with any zoning board is what is their hardship and truly their hardship is the site so we are basically saying the zoning requirements that are set are not going to work even to try to develop this property and turn it into a nice development. He said they don't want to try to persuade the board with hopefully good architecture and a beautiful building, but hopefully the board will consider that and they are trying to really improve this property and they can give the township a great looking building.

Mr. Lewis asked if this is a franchise or a company store.

Mr. Ken Blum testified that it is a franchise and he will be the owner of the business.

Mr. Lewis asked if there will be a tenant with the Dunkin' Donuts.

Mr. Blum replied yes.

Mr. Lewis said then you will sublease the rest of the building to some other tenant as of yet un-determined in their scope of business.

Mr. Blum said they will try to find a complimentary business.

Mr. Bob Nosal of Grubb & Ellis testified that he is representing Mr. Nash and referred to the aerial photograph. He said to the south of the property and everyone knows that Mr. Nash owns all of this property and part of the deal of course was and we all know that Mr. Nash tried to get this all rezoned and it did not happen so obviously it has taken 1-1/2 years to find a suitable buyer that would actually be able to use the small site which is literally less than an acre which is about .89 acres. He referred to the aerial map and said that when it was a restaurant, people parked on the residential piece to the south and this driveway and garage was all connected and one property, it just flowed back and forth so with this plan, all of this (he referred to the aerial map) goes back to green space, so they reduced down, not only on the site but off the site and that was part of the plan to try to remedy some of this overbuilding.

Mr. Olivier asked if there is a house on the south parcel or just a garage.

Mr. Nosal referred to the aerial map and said this is a garage and added that Mr. Nash lives on the second floor and Mrs. Nash passed away and showed the residence that is unoccupied and if they make this deal, which they hope they do, it has become a labor of love for Mr. Nash and he really needs to make this deal. He said Mr. Nash is hoping to renovate the neighboring property to have a place to live.

Mr. Lewis asked how far the north lot line is on Rt. 306 from the Chillicothe intersection going north on the north lot line of this property as it touches Chillicothe up to Washington and asked how long it is. He said he is curious as to where the left turn lane starts north bound on Chillicothe to turn west on Washington.

Mr. Lamanna said it is too short.

Ms. Sass said it is way too short.

Mr. Lewis said that goes almost as far as the southerly exit out of the Shell station where people are coming out from the carwash and he believes when they exit the carwash, if you want to go northbound, you are crossing the left turn lane and he is looking here to see the northerly entrance because there is a lot going on, on Washington Street and Chillicothe Road here in the distance of about 200' where there are multiple access and entrances, turning lanes and we are in front of a traffic light intersection which is the main intersection in north Bainbridge.

Mr. Evans said which is right where they want to be.

Mr. Lewis said he does not have any question about proximity.

Mr. Blum said they are not adding any curb cuts.

Ms. Eaken said no.

Mr. Lewis said the board is in a position when a property is refreshed it is a chance to do a little bit of housekeeping and make things better in the area.

Mr. Lamanna said this property is going to have a lot more rapid turn-over of cars than that restaurant did and there will be a lot more cars entering and exiting.

Mr. Evans said typically real early in the morning.

Mr. Lamanna said yes which is one of the worst times of the day and with a restaurant, the traffic tended to be after 5:30 P.M. – 6:00 P.M. after the rush hour and that intersection is awful from about 4:15 P.M. to about 5:15 P.M.

Mr. Blum said their business is from 7:00 A.M. – 9:00 A.M. and their business is all about right turn in and right turn out and we want to be on what we call the A.M. side and this property clearly is, people are coming and heading to the highway where they will turn in and turn out and yes there will be a few obviously that will have to cross traffic to get back to the other side but most of the traffic coming in for our business will be right turn in and right turn out.

Mr. Lamanna asked if they talked to ODOT at all as to whether they have any plans to modify that intersection.

Mr. Blum said they have not and are not aware of anything.

Mr. Lamanna said for example somebody may decide that the left-hand turn lane needs to come back farther and they need to widen it because it is inadequate right now, cars are stacked always into the hash marks where people are not supposed to be going anyway but people go in there instead of sitting and blocking the through traffic on Rt. 306.

Ms. Sass asked if they are aware of anything particular now, however, the traffic at the two main intersections in Bainbridge Township are always an issue.

Mr. Lamanna said that is one of the reasons for the 100' setback because part of the idea is if the road is widened, we won't have buildings right on the road and that is an area where certainly there is a good chance, in some point in the future, they might want to widen the road, maybe not the whole road, but they may want to extend that left-hand turn slot.

Mr. Lewis said one of the highest density residential developments in Bainbridge is to the south and that is a left turn in and there are two ways in, one probably very close to crossing the turning lane. He said he wanted to bring up the consideration of the parcel owned by Mr. Hershman that the Sears property is on, the same conversation the board had with another applicant on the other side of the Shell station on Washington Street who has the exact same traffic and proximity issues that this proximity presents. He asked what is behind the Nash property.

Ms. Sass said it is the bank.

Mr. Nosal said the Huntington property goes all the way back.

Mr. Olivier asked if there has been any consideration given to not having a left turn lane in the northern most drive for the egress or a single in on that north drive versus an in and out.

Ms. Sass asked if there has been any consideration to not have a left out.

The board discussed the ingress and egress of the proposed site.



Mr. Lewis said there could be a single lane wide and an in only to direct the traffic into parking in through the drive-thru and the exit goes left and right which still gives the right in and right out but by not coming out here (he referred to a site plan) we are not having two drives with one guy turning right and one turning left and they are 20' – 30' apart.

Mr. Lamanna said people going into the gas station can enter into the existing left hand turn lane and make a turn.

The board discussed the proposed turn lanes and the lane widths with the applicants.

Mr. Lewis said he likes the one way in and one way out particularly for this business because you are going in a loop.

Mr. Lamanna said it may be best to have a right turn only, one way out.

The board discussed the ingress and egress lanes with the applicants and what would be the best way to address it safely.

Mr. Evans said they are trying to get that coffeehouse look and Dunkin' Donuts is all about not just their donuts, they are really pushing their coffee and they are trying to do it in a traditional flavor and still try to get the Dunkin' Donuts image.

Mr. Murphy asked if the back half could be a Taco Bell.

Mr. Blum said no, we don't want another food establishment.

Mr. Murphy said one of the drawings had a Baskin Robbins on it.

Ms. Eaken said that is the signage.

Mr. Blum said it is not going to be a Baskin Robbins.

Mr. Murphy asked if it is going to be an office building.

Mr. Blum said it could be another retail establishment and prefers it to be non-food although pizza would be an acceptable use for us but ideally a dry cleaner is preferred. He said it is probably not going to be a pizza place.

Mr. Lewis said there are some signage components that are presented as well and there is a lot of signage and you are asking for variances, and he cautions them because the tenant will probably come in for signage and if you burn all of your variances for Dunkin' Donuts and you are going to come in here and visit us on behalf of a potential tenant, and asked do they see where he is going.

Mr. Blum said he does but he is in the business of selling coffee and donuts first and then renting space. He said they do allow for a tenant sign on the monument sign and they do allow for a tenant sign on their elevation.

Mr. Evans said this is the area he is talking about.

Mr. Lewis said he just does not want to have folks disappointed if they have a tenant and they want 800 sq. ft. of signage regardless.

Mr. Evans said they knew tonight they were coming in here for multiple variances but they really didn't feel they had a choice to make this project work on this site.

Mr. Blum said we so much want to bring it here and we think you are going to love it when we are done with it.

Mr. Evans asked the board if they saw the picture of what the brand wants us to build and said this is the prototype of what Dunkin' Donuts would like and quite frankly he does not think Mr. Blum likes this style, we are trying to bring a much softer architecture, more traditionally oriented.

Mr. Lewis said the architecture up at that intersection is pretty consistent.

Ms. Eaken said in reference to signage, they looked at the signage for this building of what seems reasonable and there is a sign above the door.

Mr. Lewis asked about the number of employees at the donut store, at peak shift.

Mr. Blum said at peak shift on Friday, if really, really busy, there would be nine people.

Mr. Lewis asked where on the site would the employees park.

Mr. Blum said as far away from the main entrance as possible.

Mr. Lamanna said there are 30 spaces and only 20 are required normally and the question is why they need all of those parking spaces.

Ms. Sass said they are trying to accommodate the future use of the building.

Ms. Eaken said typically our problem is usually the opposite, it is hard to get enough spaces.

Mr. Evans said as you notice from the design, they put the drive-thru at the far south end so they can get maximum stacking so they won't stack out and start blocking the parking that they need and obviously stack out onto Chillicothe so the design is to allow stacking to wrap around the building so it would never come out onto the main road and then obviously to get enough parking and if that is a business tenant, you could easily have 12 – 15 employees in a business of 2,500 sq. ft.

Mr. Murphy asked if this will be a two-story building.

Mr. Evans said no it is a one story and again, during peak hours, if this is an architect or a law firm in here, he knows how big his firm is and he is about just almost one-half that size right now and if he doubled the size of his firm he would need that and he would need about 15 people to support that so he could see his business alone taking up the whole back and right now his business would take up the whole back so he is just saying that they want to get as many parking spaces on this property as they can and he has seen where sometimes the minimum is the maximum, in fact Hudson does that, their minimum is also their maximum. He said in this case, normally they are fighting to get the minimum and in this case they are actually trying to better than what the zoning code requires because they really feel they are going to need it, this is typically very successful. He said again, they are trying to design it so they can stack.

Mr. Lewis said the trade-off for asking for more than the minimum is the impact on lot coverage.

Mr. Lamanna said if you got rid of those back parking spaces, you could march the whole building back 22' and get a little more frontage and obviate the issue of what happens if they decide to widen the road and then you are stuck if they chop off the whole front of your green area and you would be looking at a building right up close to the road and all kinds of other issues.

Mr. Blum said those back spots are to keep in mind when they get a delivery, the truck can sit back there out of the way from the traffic.

Mr. Lamanna said he is concerned about the setbacks in the front because he thinks it is a high probability area for some kind of road widening with a loss of some of that frontage area and if that happens, it really exacerbates the issue with the setback.

Mr. Evans said if that would happen, we would probably end up eliminating this right here (he referred to the site plan) and eliminate the handi-cap parking and moving it right over here (he referred to the site plan) and they would pick up that green space they lost right in here (he referred to the site plan) and the lot coverage would be reduced by 5% and that was mentioned earlier. He said they are trying to work with the township and come up with what we think is a great solution for a very difficult site.

Mr. Olivier asked about buffering on the south on the green space along the driveway and if it can be buffered with trees and if they would consider that.

Mr. Evans said they don't really have a landscape plan here.

Ms. Eaken said they show landscaping in the front.

Mr. Blum said it is asphalt right now.

Mr. Murphy said there are some big trees in back of the restaurant or are they on the bank property.

Ms. Eaken explained the location of the existing trees per the site plan.

Mr. Murphy said it could go from two trees to a 4' arborvitae.

Ms. Eaken said they were planning on keeping the landscape buffer around the perimeter.

Mr. Murphy asked what if it were a stand-alone business, not the 5,000 sq. ft. but the 2,500 sq. ft. with ½ the parking and one single business on a .9 of an acre lot.

Mr. Blum said if Mr. Nash wants to cut the price in half he would be so happy to entertain it.

Mr. Lewis said so the root problem is the price of the lot and that is what is driving the whole situation.

Ms. Eaken said even so, we could not meet the zoning requirements.

Mr. Lamanna said you are only allowed so much of a variance necessary to overcome the difficulty so the fact that if you could not build anything on the lot does not mean you are allowed to build more than absolutely necessary. He referred to the bank building that sits on another corner lot there and that is a pretty small building and the same thing with CVS, that is a pretty small building and the board put constraints on both of those buildings and the other issue is that a lot of the construction including the convenience store at the Shell station, they were required to build brick buildings that looked like the other buildings in the area around there and the Shell station was not allowed to put on the striping that Shell normally puts on, the awnings were not allowed to be the same as the Shell stations normally and the McDonald's was not allowed to do a lot of the things they normally do so understand, the board has some issues with the structure's exterior generally and how it fits in with what other people were required to do in that area.

Mr. Blum said because we are transitioning from the commercial zone to the residential zone and they are trying to accommodate a Western Reserve style building, to him the clapboard is much more in tune to that architecture than brick.

Mr. Evans said they are using fiber cement siding, not vinyl and this will look very first class when we are done with it and we are trying to get a more residential look, not a commercial look with this structure and he wants to make sure the board understands what they are doing.

Mr. Lamanna said style-wise and you have to understand when you look at some of these awnings with the real dynamic colors, we do not let other people try to put those in and if we let you put them in, then all of a sudden we have got every other business coming in and saying you let them do it, now I want to do it so it puts the board in a difficult situation where we tell people no, no, no and then we tell somebody yes, what justification do we have.

Mr. Blum said he thinks the CVS would be a good example, we have far less signage than that CVS has on it on the corner but you are right we do have orange on it, so there is a trade off.

Mr. Evans said we are trying to give you a great looking building but we still need some identity that we are a Dunkin' Donuts.

Mr. Lamanna said this is an argument that everybody has and it is the people that come by that will figure out real quick that there is a Dunkin' Donuts there and he sees this business is built on the guy who comes in every morning or every other morning or three times a week so, you are not attracting the person who happens to be driving through on Rt. 306 traveling from Mentor on Chillicothe and notices a Dunkin' Donuts and would not have recognized it otherwise and technically it is a convenience business district, it is meant to serve the local population therefore there is less need to be "attracting people" who happen to be driving by and that is not what the nature of your business is anyway.

Mr. Blum said as a business owner who pays 12% or 12.9% to the brands for the brand identity, that is what he is buying is the brand.

Mr. Lamanna said it doesn't lower your brand recognition, people in the area know Dunkin' Donuts and they are going to go there because they like Dunkin' Donuts and they like their coffee so it is not diminishing your brand.

Mr. Blum said but signage does make a difference.

Mr. Lamanna said he has been doing this for 15 years and he has heard this story about 150 times, it is the same story that everybody tells you and we go through the same thing so that is why his patience is probably a little less than otherwise because he has heard the drill so many times and the businesses still work and are still successful and unfortunately you come in one time but he has heard it a lot of times and the businesses have been wildly successful because frankly a lot of this stuff that people think about in theory that is great but in practicality it is noise on their business or a 10<sup>th</sup> of 1% that they might lose because somebody happened to have been driving by and if there was a bigger sign there they would have noticed and gone in, maybe one extra person per month but from the board's view you will have to give up the one extra person per month and not have a sign that is 100 feet high.

Mr. Blum said he does not think what they have asked for is outrageous and that is what he is coming from and that is all in perspective.

Mr. Lamanna said you have one perspective and the board has the perspective of what has been done for the last 15 or 20 years.

Mr. Evans said as the architect of the project they are trying to balance the signage and the architecture so there is a balance there, we understand you have rules but in order to do the project we are going to have to break the rules anyway to get a project on the site.

Mr. Lamanna said we break the rules as little as we have to break the rules to have a reasonable and viable project.

Mr. Evans said we have to step back and look at the architecture and ask if it works, does the signage look good, does the building look good.

Mr. Lamanna said the board considers that when we look at signage.

Mr. Evans said he hopes the board will.

Mr. Lamanna said the board looks at how it fits on the building and size etc.

Mr. Evans said proportions etc.

Mr. Lamanna said right and the board does consider that aspect of it.

Mr. Evans said they realize they are here tonight asking for a lot from this board but we also want to bring what they feel is a great project to your community and we hope you would think so.

Mr. Lamanna said as he has said he has been here a long time so he has dealt with the bank and the CVS and they had the same problems and probably had a smaller lot and both of them are somewhat smaller so the board has been around this race course a couple of times already.

Mr. Evans said okay.

Mr. Lamanna asked if there was anything anyone would like to add to this.

Mr. Mark Nelson of 16870 Chillicothe Road testified that he lives just down from the Nash properties and wanted to see what was going on.

Mr. Lamanna asked Mr. Nosal about the residential property, the two lots that belong to Mr. Nash and asked how wide the lots are.

Mr. Nosal said the two pieces are at 1.7 and one is 1.4 give or take and the bigger one is right next to the restaurant.

Mr. Lamanna asked if the plan was to try to sell them as two separate building lots or each of them as one lot because it looks like the house is pretty well up against the line there, the existing structure.

Mr. Nosal said he does not think residential is going there and he does not think those lots will be viable residential lots and he does not know what is going to happen there long term.

Mr. Lewis said the Zoning Commission hasn't changed them so they are residential.

Mr. Nosal said he understands and he is not asking that and he thinks it is going to be a green space for a very long time but maybe Bainbridge would buy it, it would be a nice park.

Mr. Lamanna said he was looking at it from a standpoint if it was combined into a single lot then the board's concern with maybe letting them drift a little bit closer on that side, it is a little bit less of a concern because then there would be a lot that is so wide that if they are up close to the edge of it, it is not that big of a deal. He said in the future, they may decide to rezone it POD or something else.

Mr. Nosal said when they originally came in, they actually attempted to create sort of an easement and Mr. Nash agreed to use the part where the driveway is, it could be shifted down and get it away from that intersection which would actually make a lot of sense but that would not work because that would mean going over the line.

Mr. Lamanna said you would have a commercial use in a residential district.

Mr. Nosal explained that Mr. Nash owns the garage and he has his car in there and then the house down here is not livable right now but he is going to try to get it that way.

Mr. Blum said the original feel they brought to the town was a 6,500 sq. ft. building so we shrunk it down quite a bit.

Mr. Lamanna asked if anyone knows how big CVS is.

Mr. Evans said the standard CVS is about 14,000 – 15,000 sq. ft. and does ten Walgreens stores a year so.

Mr. Lamanna said that CVS is not that big.

The board discussed the size of the CVS, bank and the size of the parcels and the parking spaces.

Mr. Evans said they are not trying to give the township a box, most municipalities are trying to get away from big box stores coming in, they want something that is broken up and they are trying to do that with the architecture here to break up the rooflines and keep it a little more residential in character.

Mr. Murphy said the south elevation unfortunately is one giant long parking lot as well as the west is fairly visible from the west and the Sears parking lot and with the trees gone on that back lot line and right now when you are around back there in the Sears lot, you don't see that with the couple of big trees back there it tends to hide it pretty well but once we strip that entire site and the bank is in the process of maybe moving them around as well that both of these things will be fairly visible from both sides.

The board discussed the size of the CVS store.

Mr. Evans said that CVS stores are a little smaller than Walgreens and Walgreens are about right at 15,000 sq. ft. or 14,885 sq. ft. to be technical but CVS is a little smaller store.

Mr. Evans said the (CVS) is probably about 13,000 sq. ft. and CVS's are a little smaller than Walgreens but Walgreens are right about 15,000 or 14,885 sq. ft. and he has done a number of them and they are in his brain unfortunately.

Mr. Lamanna said the board made them shrink that building, they wanted a bigger building so it is still smaller than normal size.

Mr. Evans said that does look smaller than the standard size CVS.

Mr. Blum asked how the Shell station got the carwash.



Ms. Sass said through a variance.

Mr. Lamanna said that may go back, that Shell station has been there a long time.

Ms. Sass said there was a variance because that was the basis of litigation between Nash's and Shell, 10 or 15 years ago.

Mr. Evans said their feeling is they are trying to come in here in a very logical fashion and our backs are up against the wall and we are trying to give you a layout that not only works for us and obviously if it doesn't work for us, our business fails but we are trying to do it in a logical sense and locate our parking where it should go against the Shell station, against the commercial zoned property and create as much buffer as we can against the residential property and if this comes down to a few trees, he thinks they can accommodate that and if we need to add some trees if that is what you are looking for but we are trying to do a really great project here.

Mr. Olivier asked about the north drive.

Mr. Evans said he did not think they had any problem changing this situation at all and again they just want to make sure it is wide enough for their trucks.

Mr. Lewis asked if they are semi trucks.

Mr. Blum said they have 53 footers.

Mr. Lewis asked if they are scheduled.

Mr. Blum said yes they usually come in after 9:00 in the morning and before 5:00 P.M.

Mr. Lewis said so they are not there interfering with your peak business time.

Mr. Blum said exactly, they will go to the stores where they won't interfere first on their route.

Mr. Evans said that is another reason we need a lot of paving too.

Mr. Lewis asked how long the truck is there typically making a delivery.

Mr. Blum said 30 minutes.

Mr. Lewis said because the store occupies the front, where will the delivery entrance be for the trucks.

Mr. Evans referred to the site plan and said the short little drive, there is a delivery door.

Mr. Lewis said he sees there is a sidewalk so the truck could be parked in the back and run his cart with his dollies there.

Mr. Evans said it is pretty much out of the way and referred to another door and said it is the other tenant door.

Mr. Olivier asked about the colors of the awnings on the elevations.

Ms. Eaken said they are bright orange.

Mr. Nosal said the CVS has 18% coverage and this happens to be 12.7% of building for comparison.

Mr. Lamanna asked about the lot size here.

Mr. Blum said it is .89 acres.

Mr. Lamanna said the board needs some demonstration that the price being asked for the lot is reasonable because one difficulty the board has is people come in and say they have to build this big thing to make it financially viable because they have to pay this much money for it. He said the board just went through six months of hearings on a piece of property where somebody said they needed to build this many houses on this lot because they paid this much for it so in the end it comes down to maybe the asking price is too high, you can't say you are going to sell your property for X and the only way to justify that is to build a building so big on it so for the board to justify granting this variance, there has to be some demonstration that there really is an economic impact necessary and reasonable because the board looks at the numbers and if suddenly the price per acre for this parcel is 50% more than other parcels have been for in the area, that is not a financial hardship.

Mr. Blum said he would love to pay ½ the price for the property but there is a seller and buyer, there is a finite number of parcels.

Mr. Lamanna said but the seller also realizes that only a certain size building is going to be allowed to be built on this property so it certainly affects the ultimate value of the property and the value of the property is determined by what can be built on it.

Mr. Blum said they are not putting a materially different size building on it than what is already there.

Mr. Lamanna said yes but you are putting in a materially different business that has a materially different impact so it is not a continuation of a current pre-existing use where you can say you are going to keep using it the way it was used, you are going to change the impact of it entirely and it is the board's obligation to have legal justification to grant the variance, the board is not trying to give you a hard time. He said he can say that you (applicant) presented no economic analysis to the board in your presentation so the board can therefore find that there is no economic hardship and you are not entitled to a variance because the evidence was not presented to the board and it should be incumbent on the applicant to prove they are entitled to a variance and part of that proof relates to demonstrating that there is no other viable economic options and there has not been any evidence presented to that at all. He said the board can sit here and say there is no demonstration of that, sorry, so the board has an obligation as to look at these things and make a decision on what is presented and if it is not presented, the board has no basis to grant a favorable decision and will have to rule against the applicant.

Mr. Blum said if he shows the board a break even statement that shows sales of 10,000, 15,000, 20,000 or 80,000 a week, you are still going to be taking my word for it on some level that there is a financial necessity here.

Mr. Lamanna said you are also sworn under oath and that is why we do it that way.

Mr. Blum said the brand's general requirements call for 20,000 cars per day to go in front of your store and this location at the last report has about 17,000 so it is already under the minimum for a viable site and those are some of the things we take into consideration so when he is doing his break even analysis and when he says the average sales in this market is roughly 13,000 a week, because they are under the 20,000 cars, he has to assume it is even less than that and the other thing is we are a brand that doesn't exactly have instant gratification, he doesn't open up a business and in the first month throw out a positive cash flow, he has three stores open and all three of them lose money, because they are all about being part of the daily routine and when people don't just one day find that Dunkin' Donuts is here and they don't have to go to another convenient store to buy their coffee, it takes years and we are willing to make an investment in time.

Mr. Lamanna said you build a following.

Mr. Blum said they build a following and that is why they build a spectacular building and if you go to any of our stores it is always ceramic tile, the bathrooms, floor to ceiling tile, there are granite tops it is not Formica, it is not FRP, its beautiful because they are in for the long haul. He said for the first couple of years he is going to lose money no matter if he puts a 2,000 sq. ft. building on this lot or a 5,000 sq. ft. building on this lot but when you talk about the purchase price of the land where it is at, his break even point to build a stand-alone building, his break even period would go from 18 months to 48 months and at that point you scratch your head and if that a reasonable time-frame to turn a profit.

Mr. Lamanna said the fact that somebody paid too much for the piece of property that they bought is not cause for this board to give them a variance.

Mr. Blum said he understands that.

Mr. Lamanna said and part of that may be coming back and saying we are sorry but we think that somebody is trying to sell this property for a price that is not justified because the only way that you can support that price is to build on this property beyond which the board is willing to allow.

Mr. Nosal said just because it happens to be up there the tax value for the property is \$387,000 by the county's records and if we said to you that the purchase price was within 15% of that simply to cover costs and generally speaking the tax records are typically a little behind the fair market value and we always argue for it being too high when we are paying for taxes and we also argue for being too low when selling so just so you know this is not some crazy out of realm possibility of costs.

Mr. Lamanna said that is what the board would like to see, probably a copy of the contract because the board has to do their due diligence too.

Mr. Blum said in his business, Dunkin' Donuts, the price might be the bargain of the century for CVS because he is not selling pharmaceuticals so it is all relevant.

Mr. Lamanna said unfortunately we have to look at it from the standpoint as the piece of property not as it relates to a specific business so somebody can't come along and say they have to build a larger building because of the type of their business, then this property is not suitable for you (Dunkin' Donuts).

Mr. Blum said when we go look at a property our realtor finds, we look to see what is there and then we say what would be build on here and when we make a decision to go or no go we factor in the traffic counts, population density and all of those things you are supposed to do but when we are trying to decide what is the reasonable purchase price for this property, that purchase price is all about what is there today and what are we looking to do on it. He said in going back to what Mr. Evans said, we think this will be a better property after we build it then what is there today and he is sleeping well knowing what they are presenting to the board is an improvement over what is there today.

Mr. Lamanna said right but that is a consideration that the board has which is not the most important consideration.

Ms. Sass said the board should get that contract and look at some of the other previous files relative to the surrounding properties which we can talk to our zoning inspector about.

Mr. Lamanna asked Mr. Blum if he is going to look some more at the traffic flow and suggested that he contact the ODOT District to find out if they have anything on the horizon and the board would also like to make sure exactly where that left hand turn lane starts.

Mr. Olivier said if the egress is the southerly drive, you are right at the property line.

Ms. Eaken said it is two feet off.

Mr. Lewis said he wonders how ODOT feels of having people pull out and pausing in the hash marks making a left hand turn.

Mr. Lamanna said you are not supposed to go in the hash marks.

The board discussed the location of the existing driveways and the one for Washington Square.

Mr. Evans said he knows this is not a municipality but asked if the township has an engineer or anybody they work with or an engineer on staff.

Ms. Sass said we use the county engineer.

Mr. Lamanna asked if they talked to the gas station at all.

Mr. Blum replied no.

Mr. Lamanna said he is concerned about the ingress and egress and the board has to look at whether there are some ways to share or ameliorate the problem.

Mr. Lewis said and they make lefts and rights out of that exit right on top of that turning lane and they get a lot of traffic during the same peak hours.

Mr. Blum said they do, people will get gas on their way to work.

Mr. Lamanna said he thinks the whole aspect of the turning and the traffic needs a little bit more thought based on some of the issues we raised, the board is not looking for traffic studies, just in terms of public flow design and turning issues etc. and asked if there are people with particular expertise on that, that look at flow issues, ingress and egress etc.

Mr. Evans said yes.

Mr. Blum said he is trying to ask the board to make a decision, he is asking this out of respect, the board is asking us to go back and spend a lot more money and if there is still no chance of getting this approved, just be honest with him now, and he will cut the ties because at some point as a business owner, he needs to cut his losses.

Mr. Lamanna said the board is not here to give you (Mr. Blum) a run-around, the board is here to try, to the extent we can figure out something that is going to work for everybody.

Ms. Sass said she thinks it is workable but the board has an obligation to the community and first and foremost the board's obligation is, we have to apply the standards but legally we have to do them so we have to make sure we do that for the safety of the community as well.

Mr. Evans said they are in alignment there.

Ms. Sass said her thought is it is workable but it needs to be tweaked and based on what she has heard she is not willing to say it is not workable.

Mr. Evans asked what about the other four members.

Mr. Murphy said he agrees with Ms. Sass and he thinks there are a lot of variances being asked for and some of them are not substantial, some of them abused more so by the previous property and he would probably buy some Dunkin' Donuts and some Dunkin' Donuts coffee living here and he knows people who would be happy to come in and use the business and depending on what the other back property is, it is a little weird for him to say yes it is okay to go ahead and do that without knowing what is going to be in there, a video store, or an x-rated book store or something, Dunkin' Donuts in the morning and something else late at night. He asked the applicants if they have seen Mr. Michael Joyce's (Zoning Inspector) comments or not and they are all the variances and there are a lot of things that are being asked for and some may or may not be substantial but in total between the building and structures and the size and location, there are 18 different variances on this request and so without spending a lot of money, the board can take a second look at that and maybe some of the signs are not necessary or can be tweaked a little bit according to Mr. Joyce's first run through on what has been asked and compared to what is here. He said one of the things it does say on a commercial business, if you are up against residential, they would like to see screening and landscaping, a fence or a planted wall of living bushes on the south side and not everybody likes it in the same way but he is all for trees and shrubs and the fact that we planted grass seed out there by the road, does not do it for him, that is good, he likes grass but if all of the grass was eliminated and actually planted shrubs, he would be one to vote on that, you would not have to plant grass, put in nice mulch and plant shrubs or evergreens and have it bloom all rear around, but he thinks the board could address that and everybody in Bainbridge appreciates it.

Mr. Olivier said the board is going to look at these two prior decisions that were made, not necessarily by these members of the board on the CVS and the bank and a few that are a matter of public record and review those variances that were granted and bring your next plan to us with some attention to some of those variances and how you differ from those and why you should have more and you are requesting more and why you are getting less or offering less and that is public record so you can benefit from what other people have done before you in reading those minutes and those variances would be a help.

Mr. Lamanna said there will be some signage issues.

Mr. Blum said we look at those as signage opportunities and referred to CVS.

Mr. Lamanna said just in terms of number and added that CVS is not a good example to be citing.

Mr. Lewis said CVS is also on a corner lot and it has two fronts.

Ms. Sass said those are matters of public record.

Mr. Lamanna referred to the proposed signs and said size wise there may be a little bit more than is typical but this is a longer skinnier building so the board would probably give some relief.

Mr. Evans said that is why they are trying to do what they are trying to do.

Mr. Lamanna said the board has put limits regularly on people with regards to signage and referred to the awning that sticks out over the driveway.

Ms. Eaken said the drive-thru has an awning and that is one of our signs.

Mr. Lamanna said the township has a prohibition against signs that stick out like that.

Ms. Eaken asked over the drive-thru on an awning.

Mr. Lamanna said yes, if it is not a turn right, turn left or stop.

Mr. Evans said as long as it is shown, it is another variance to you.

Mr. Lamanna said it is listed as a prohibition so there would be almost no reason why the board would give a variance to that, it would have to a spectacularly unusual circumstance and the only way they could have the sign is if it stuck out because they had a door way and the only entrance to their business was a narrow doorway.

Ms. Eaken said to make the awning acceptable we just need to take the text off.

Mr. Lamanna said right, there cannot be any text on it.

Ms. Eaken said that is what she needs to hear.

Mr. Evans said they were hoping to get some feedback tonight.

The board discussed the proposed awnings.

Ms. Eaken said the only awning that has writing on it which it won't anymore is the one on the drive-thru.

The board discussed the proposed signage.

Ms. Eaken explained the main frontage where they want to have the Dunkin' Donuts sign and noted their prototype sign.

Mr. Lewis said there is one significant advantage because that is the side of the building that is Chillicothe Road and the primary placement of the primary sign even outside of ground signs, the marquee on the chimney, your name is right, front and center and it is all of what 60' off the roadway.

Mr. Evans explained that they tried to keep it all in for Dunkin' because that is part of who they are but make it more like a chimney and make it a little more Western Reserve so that is that element, except they made it out of brick now and made it look like a chimney but still give Dunkin' Donuts a little bit of their element.

Mr. Lewis said it will take about ten minutes for 95% of the residents in this area to realize what is there and that should be very reassuring for you (Mr. Blum) and your business.

Mr. Evans said there is a ground sign that is all part of this proposal too.

Mr. Lewis said he did not look at the size of it yet.

The board discussed the proposed signage.

Secretary's note: Ms. Sass departed the meeting at 10:20 P.M., however she was in agreement to adopt the meeting minutes dated June 19, 2008 and July 17, 2008 as written and proceeded to sign the minutes before departing the meeting.

The board continued its discussion on the signage and the proposed messages on the sign.

Mr. Lewis said we don't have a lot of message board permits in the township.

The board discussed electronic and moving signs.



Ms. Eaken said it says in the morning to come in for a cup of coffee and at lunchtime it will say come in for a flatbread sandwich and they will leave it up there for several hours and the afternoon it will say get an iced coffee.

Ms. Sass said there is prohibition on moving signs.

Mr. Lewis read from the zoning resolution that “No sign shall be illuminated or contain any flashing, intermittent, rotating or moving lighting device.”

Ms. Eaken said they wouldn't have that.

Mr. Murphy said his thought is a 7' sign blocking your view getting in and out of that driveway.

Mr. Lewis said there is a car length of 20'.

Mr. Evans said they can put a car there and show you some sight lines.

The board continued to discuss the proposed signage.

Mr. Murphy said according to Mr. Joyce there are 11 possible sign variances being asked for and maybe the applicant can take another look at that before the next meeting.

Mr. Lewis said in consideration of, if you have a building and you are only occupying one-half of it and you are going to want another tenant and the whole sign and the quantity and variances, you don't want to find that you have made it hard on yourself to attract a tenant down the road and the board understands that you made need the income off the other portion of your building to make your business model work. He said his suggestion would be to present the signage for the whole building for the future tenant, not concerning yourself with the artistic orientation of the graphic, we are signaging a building so when we are looking at this, we are not setting up a hardship situation down the road. He said the board is trying to give some direction and it has some work also and he would recommend taking a spin around the intersection during the daylight and Mr. Lamanna has suggested that this board is going to be very sensitive to the architectural materials that you see up around there but your building is in a commercial business district, it is not in residential and there is significant more impact with the fact that it is adjacent to the commercial district than it is on two yet to be determined residential properties.

Ms. Eaken asked if it is this board that has the authority to make the decision as to what materials can be used or architectural review.

Mr. Lewis said the board can guide you along.

Ms. Eaken asked if Bainbridge has an architectural review board and said she didn't think so, but when listening to the board talk, she thought that maybe there was.

Mr. Lewis said when you are dealing with variances, sometimes conditions apply into architecture conformity so this is a whole lot nicer rendering to look at than the more traditional store front that we have seen around.

Mr. Lamanna said technically the board does not do architectural review but we do in granting variances look at impact on the neighborhood and consistency with the neighborhood so in that way we get into those issues.

Mr. Evans said but you are not sitting there ruling on it.

Mr. Lamanna said we are not an architectural review board of a municipality.

Mr. Evans asked in your mind sitting there if the board is all thinking they will have to go to an all brick building because if that is where you are going, let me know now because that is a big deal.

Mr. Lamanna said the board is looking on how it looks consistent with the surrounding area.

Mr. Evans said they have some brick, the chimney is brick.

Mr. Lamanna said that is what the board is looking for, consistency with the surrounding area which again there is a variety of construction, the bank has mixed construction but the style should be more consistent of what we are looking for.

Mr. Murphy said there is something about the south elevation that bothers him because coming up the hill on Rt. 306 you are going to be looking at that big long expanse.

Mr. Blum said you will be looking at shrubs now.

Mr. Lewis said that would also hide the cars stacked in the drive-thru lane and he would rather say rather than changing the architecture, change the landscape properties of it and you can achieve both as far as that 200' straight wall.

Mr. Evans said just to let you know, functionally what is behind that wall in the floor plan is all kitchen equipment, it is not a dining room.

Mr. Lamanna said if there are other windows there, it will confuse the people coming up to the drive-thru.

Mr. Evans said so the order of the day is we are going to be back in a month and asked if that is right.

Mr. Lamanna said right.

Mr. Evans asked if they need to resubmit their new stuff in advance of the meeting like they normally would or is it due today.

Mr. Lamanna said if you can get that back in a week beforehand so the zoning inspector can look at it and the board gets it about a week or five days beforehand. He said they will put it in the package that we get before the monthly meeting.

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

Motion BZA -2008-19 – 16780 Chillicothe Road (Dunkin' Donuts)

Mr. Lamanna made a motion to continue this application to the next regularly scheduled meeting to be held September 18, 2008.

Mr. Lewis seconded the motion.

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

Secretary's note: Ms. Maureen Mason asked the board if they would meet with her again to discuss the survey that she brought in. The board was in agreement to meet with Ms. Mason.

Application 2008-18 by Robert Hradek for Maureen Mason for property at 17532 Merry Oaks Trail

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

Ms. Mason testified that she did have a survey of her property.

The board reviewed the survey.

Ms. Mason said it looks like the south side is 11' from the side of the house and asked the board members if that is the way they interpret it.

The board continued to review and discuss the survey.

Mr. Lamanna asked Ms. Mason if her lot is tapered to the back and gets wider at the back because the survey looks like it.

Ms. Mason said apparently yes and she did check the dimensions against the deed and the 200 and the 89 are all the same numbers in the deed. She said it appears that the south side of the deck is right in line with the house but in actuality the old deck was 8' beyond the end of the house.

Mr. Lewis said which was probably just about right on top of the lot line.

Mr. Murphy said that 11' is at the front of the house.

Mr. Lewis said it will be around 9' by the time you get to the back of the house to the lot line or even less than that so if the old deck came out 8' it may be sitting right on top so you are maybe 3' or 4' off the lot line with the current construction. He said this helps with the determination so that if Tanglewood is 15', that is kind of interesting here because even if Tanglewood was at 15', you are 11' off.

Ms. Mason said she knows.

The board continued discussing the side yard setbacks with Ms. Mason.

Mr. Lamanna asked if the deck extends beyond the house.

Ms. Mason said yes, 5' and the original one was about 8'.

Mr. Lamanna said this shows the deck and the house being even.

Ms. Mason said she knows it does but it is not though.

Mr. Olivier said you can see a picture of the old deck on the aerial on the 2000 GIS and it almost looks like it is over the line and it could have been.

Mr. Murphy said the bottom paragraph on this almost says it all because if you read it, it says this is not intended for purposes of land or property line surveys for the purposes of determining encroachments etc., and the property should have an accurate stake survey made by a registered surveyor. He added that this is all the bank requires.

Mr. Lamanna asked Ms. Mason how big the back of her house is and it shows that it is 35'.

Ms. Mason said her dilemma is she was replacing what she thought was an existing deck and she sunk about \$20,000 into this deck and that is economically where she stands. She said when she started she had \$15,000 in materials sitting in her yard and came back from the township here and said we have a problem so we pulled it in from a design standpoint as far as they could without it looking too bad so they pulled it in 3' so they were at least trying.

The board discussed whether or not to rely on the survey document that Ms. Mason submitted.

Mr. Lamanna said the answer is to get a definitive survey on that line.

Mr. Lewis said to not forget about the condition of the adjacent property too and the board needs to get this right because it is inevitable that the other property is going to change hands and the board does not want to create a situation in haste that could be unbearable for you (Ms. Mason) down the line.

Ms. Mason was in agreement to have a survey done on the one side by a professional surveyor prior to the next meeting.

The board was still in agreement to continue this application to the next regularly scheduled meeting to be held September 18, 2008.

Since there was no further testimony, the public hearing was closed at 10:41 P.M.

Respectfully submitted,

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

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

Date: September 18, 2008

AUDIO RECORDING ON FILE

BZA PH 8/21/2008

-46-

Bainbridge Township, Ohio  
Board of Zoning Appeals  
August 21, 2008

The regular meeting of the Bainbridge Township Board of Zoning Appeals was called to order at 10:41 P.M. by Mr. Michael Lamanna, Chairman. Members present were Mr. Todd Lewis, Mr. Mark Murphy and Mr. Mark Olivier. Ms. Lorrie Sass was absent.

MINUTES – July 17, 2008

Mr. Lamanna made a motion to adopt the minutes dated July 17, 2008 as written.

Mr. Lewis seconded the motion.

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

Secretary's note: As noted earlier, Ms. Sass was in agreement to adopt the July 17, 2008 minutes as written and signed the minutes before her departure from the meeting.

MINUTES – June 19, 2008

Mr. Lamanna noted that on the minutes dated June 19, 2008, he had made only a few renumbering changes.

The board was in agreement with the changes.

Mr. Lamanna made a motion to adopt the minutes dated June 19, 2008 with a small number of substantive changes.

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

Secretary's note: As noted earlier, Ms. Sass was in agreement to adopt the June 19, 2008 minutes as written and signed the minutes before her departure from the meeting.

Applications for September 18, 2008

The Bainbridge Township Board of Zoning Appeals set a public hearing on the above applications for September 18, 2008 at 7:30 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.

Application 2008-17 by Highland Construction for Ian & Shari Roche for property at 7070 Bramshill Circle - Continuance

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

Application 2008-18 by Robert Hradek for Maureen Mason for property at 17532 Merry Oaks Trail - Continuance

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

Application 2008-19 by James D. Evans, Architect for Dunkin' Donuts for property at 16780 Chillicothe Road - Continuance

The applicant is requesting area variances for the purpose of constructing a new Dunkin' Donuts. The property is located in a CB District.

Application 2008-20 by Signs Ohio for Woodforest National Bank located inside Walmart for property at 7235 Market Place Drive

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

Application 2008-21 by Signature Sign Co. for Cowboy Restaurant for property at 8586 E. Washington Street

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

Application 2008-22 by Hawksmoor Homeowner's Association (Greg Fedele) for property located at the front entrance of Hawksmoor Subdivision

The applicant is requesting area variance(s) for the purpose of installing a ground sign. The property is located in a R-5A District.

Application 2008-23 by Dinallo & Wittrup Homes, Inc. for property located at the front entrance of Brighton Park Estates

The applicant is requesting area variance(s) for the purpose of installing a ground sign. The property is located in a R-5A District.

Application 2008-24 by Sandra Hood for property at 8125 Bainbrook Drive

The applicant is requesting area variance(s) for the purpose of installing a deck, patio and water feature. The property is located in a R-3A District.



Application 2008-25 by John L. Burge (Holsman Sign Services) for Premier/KFC  
Restaurant Mgmt. for property at 7217 Aurora Road

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

Since there was no further business, the meeting was adjourned at 11:00 P.M.

Respectfully submitted,

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

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

Date: September 18, 2008