

Bainbridge Township, Ohio  
Board of Zoning Appeals  
September 15, 2005

Pursuant to notice by publication and certified mail, a public hearing was called to order at 7:35 P.M. by Mr. Michael Lamanna, Chairman. Members present were Mr. Todd Lewis, Mrs. Ellen Stanton and Mr. Donald Takacs. Mr. Mark Olivier was absent. The following matters were then heard:

Mr. Lamanna swore in all persons who intended to testify.

Application 2005-44 by Brian Winovich for property at 17477 Chillicothe Road

The applicant is requesting area variances for the purpose of constructing multi-family residential – condominiums. The property is located in a R-3A District.

The zoning inspector's letter dated August 24, 2005 was read and photos of the site were submitted.

Mr. Brian Winovich and Mr. David English were present to represent this application.

Mr. Winovich testified by thanking the members of the board and the neighbors that are present and said he has been a resident of Tanglewood for nine years and lived in the Chagrin Valley area or over 20 and that he is not a developer, he just has an interest in real estate and is not a professional speaker, but he has a passion for the project. He continued by saying that the property is at 17477 Chillicothe Road and indicated that it is the white square on the site plan and it is 1.65 acres on Rt. 306 around the Tanglewood area. He said they want to re-zone the property or obtain an area variance to build eight condos on that property. He talked about the history of the property and that the house was built in the 1800s on a 100 plus acre farm on a dirt road in a quiet community, but as Bainbridge has emerged, the 140 year house sits 6' from the right-of-way and is surrounded on all sides by multi-family residences. He said the deed reads for the separate parcel as part of Tanglewood Subdivision #1 and platted in 1969 for condos. He said that Mr. Burns and the then zoning board could not have envisioned back in 1947 how this would look and now the zoning regulations would not have allowed it to stand alone. He said it is unreasonable to ask a landowner of over 70 years to sell this as a single family house and added that it has been vacant for over three years and on the market for over one year and added that at this time, this parcel is completely surrounded on three sides by Tanglewood. He said the property is not contingent upon being part of the Tanglewood Community and Tanglewood Condos #3 and #4 would not be affected. He said it would benefit them by shielding them from the noise, vibrations and site and this would protect Bainbridge Township from a future more intense use. He said they feel the existing property values would continue to grow because of the new, more expensive homes nearby.

Mr. Winovich continued by saying that the property is sewerred and will have on-site water wells and the drive will be on Route 306 and it was proved to be safe by ODOT standards and the Bainbridge Township Police Department. He referred to the standards for a variance and said the house is no suitable longer for a single family residence nor is the property for new single family construction and it will create deterioration of this home and there are already examples on Route 306 in the historic district. He said their project is under 5.3 units per acre, will be 35% less than the 48% lot coverage that exists today and the setbacks will be consistent. He then introduced Mr. David English who will talk about the architecture and site plan.

Mr. David English testified that he is a builder and developer in the local area and is working with Mr. Winovich as a partner and that Mr. Craig Cawrse was asked to lay the property out and the attempt is to build two-unit buildings and we feel this is the best layout to make it marketable. He continued by saying that one unit would be 1,500 sq. ft. and the second unit would be 2,200 – 2,300 sq. ft. He said the units will be a cape cod style, but this is not their final plan and added that it was done by Mr. Steve Ciciretto's office. He said if the 1-1/2 acre property was not located on Route 306, the land would be worth close to the price of the property and we feel strongly that a small number of units in a condo cluster is the best use for this land with everything around it.

Ms. Nancy Connell of 8615 Tanglewood Trail testified that she has lived in condo unit #3 since 1970 and has issues and concerns. She said she thinks the property values of the existing condos will not be enhanced but a worse option would be a Wendy's or a chicken franchise but she does not think a doctor's office or CPA office would be bad. She said this property is raised higher than the condo property and when it rains heavily, they have water coming in their front doors now. She asked if there has to be a building on every bit of green space in Bainbridge Township. She said keeping it a green space is nice and she then referred to the landscaping and said that promises are not always kept when it comes to landscaping and she looks out her living room window now at a shack at the daycare center and said there is no landscaping yet and it is not done yet and that promises are not always kept.

Ms. Peggy Hannan of 8526 Tanglewood Trail testified that she has lived here for 30 years and said she is concerned about the green space and it seems like more because of the golf course but if the mature trees on this property are taken out, you will have eliminated almost every spectrum of green space in that area.

Mr. Leonard Marks of 8494 Tanglewood Trail testified that he has lived here for over 25 years when it was almost a rural area but it is very urbanized now. He said he put a deck on the back of his condo but cannot use it now because of the traffic on Route 306. He said he does represent a substantial amount of residents within condo assn. #4 and the residents think these proposed condos will detract from their homes and it becomes a nightmare at certain times to get out onto Route 306 and said he does not see how these people will ever get out of their homes because we sit 5-10-15 minutes at a time now and cannot get out because of the traffic. He said they request that their opposition be heard and hope their rights will be respected.

Mr. Lamanna asked Mr. Marks which condo is his.

Mr. Marks said it is the second condo on the left that borders Route 306 (8494) and the first one is 8492.

Ms. Linda White of 17911 Snyder Road asked how close the property line is of this proposed cluster to the oil and gas wells that are going to be drilled on the Tanglewood Country Club by Summit Petroleum.

Mr. Winovich said he was not aware of the proposed gas and oil wells.

Ms. White asked the board if she should be bringing this up.

Mr. Lamanna said yes and asked Ms. White where she obtained the document.

Ms. White testified by saying, the township zoning department.

Mr. Lamanna said it is signed by a surveyor and dated July 26, 2004 and has the Division of Mineral Resource – 2005 on it. He asked Mr. Joe Orłowski, Assistant Zoning Inspector what he knew about this.

Mr. Orłowski testified by saying he knew very little only that it will be by the golf course and the company is Summit Petroleum.

Mr. Lamanna said it will be 330' from the proposed well site to the far corner and it is on the upper right hand corner of the site plan, 330' to the well, northeast slightly. He said it is across from the R. Collins property, south of the line of the Markley's property and the last row of condos will be closer to the well than these will be and the houses on the other side of the road will be closer. He said it looks like it will be 600' from the condos, 78' from the pavement and 50' from the right-of-way.

Mr. Matt Lynch of 17392 Sugar Hill Trail testified that he is the attorney representing Mr. Eugene Monroe of 8524 Tanglewood Trail and said he did not see the actual setback numbers.

Mr. Winovich said the setbacks are 25'.

Mr. Lynch asked what the required setbacks are.

Mr. Takacs said they are 100'.

Mr. Lynch said that is a variance of 75' and that is pretty substantial. He continued by saying there are eight proposed units and asked what they will be selling for.

Mr. Winovich said they will be selling for less than \$300,000.00 each.

Mr. Lynch said that is a little less than 2 million dollars in sales.

Mr. Winovich said they are building eight units at less than \$300,000.00 each.

Mr. Lynch said the county shows the property valued as \$112,000.00 and you (Mr. Winovich) offered \$212,000.00 and you will transfer your \$200,000.00 investment into a 2 million dollar investment. He said the applicant gave reasons that nothing else can be done on the property but he can make a lot of money. He said a lot of money is not a justification for granting a variance and he does not think this project meets any of the requirements. He said that 2 million dollars for \$200,000.00 is anything but unreasonable. He asked Mr. Winovich if he is not buying the property anyway for \$170,000.00.

Mr. Winovich said that is not accurate, they have a \$170,000.000 offer to buy the property at any point at their discretion.

Mr. Lynch asked if that is without a variance.

Mr. Winovich said their discretion is to buy it without a variance.

Mr. Lynch asked what the property will be used for and if they will rent the house.

Mr. Winovich said he cannot answer that.

Mr. Lynch said the applicant is saying that this house cannot be used as a residence but it has been used as a residence for the last 50 years and asked if it could be used as a residence without eight condo units. He asked Mr. Winovich if he told ODOT that there will be eight units.

Mr. Winovich replied yes.

Mr. Lynch said there could be three people per unit that would be 24 people and asked how many garages there will be.

Mr. Winovich said there will be a two-car garage for each unit.

Mr. Lynch said that equals 16 cars and it is a much more intense use in terms of drivers and he knows that the board has a couple dozen letters from people that live in the area. He continued by saying that maybe this would not affect government services but the applicant knew of the zoning restrictions and added that the board could grant a variance for two units or a less intense use of this property.

Mr. Lamanna asked Mr. Lynch if he is suggesting office use as less intensive.

Mr. Lynch said if it is in the same building yes, but he is not suggesting an office building.

Mr. Lamanna said once the board allows office use, it cannot control how it will be used and cannot control the traffic.

Mr. Lynch referred to an accounting or lawyer's office and said the board can put all kinds of conditions on variances with less intensive uses other than eight condo units.

Mr. Lamanna said generally, residential is the least intensive use.

Mr. Lynch said that eight condo units will be more intensive than a dentist office with an assistant and stated that he has not heard what the hardship is.

Mr. English said it was what he mentioned earlier.

Mr. Lynch said he did not hear anything earlier, just passion and does not know of any neighbors that support this and asked if they will be getting water from the property.

Mr. Winovich said that is the plan.

Mr. Lynch read from the Duncan factors and said the property can be used in other ways so there is no reason other than to allow a substantial income for the property owner and it is not consistent with the zoning setbacks because the code states a 100' setback and they are asking for a 25' setback which is substantial.

Mr. Lamanna said that assertions have been made but the board needs evidence and facts and that particular piece of the Duncan factors relates to what is in the area and if you say it is physically different, tell the board how it is different.

Mr. Lynch said he cannot say it is inconsistent with the lot coverage but it is inconsistent with the zoning because there is no multi-family zoning in Bainbridge any more and added that this is a very dramatic change for this property and very dramatic for the neighbors and they will be substantially impacted and we might as well build condos to E. Washington Street.

Mr. Lamanna said it is a little different because it is surrounded by condos and the board wants to address it on the merit that applies and a statement was made that it would adversely affect their property values.

Mr. Lynch said he has the opinions of the residents.

Mr. Lamanna said it is not really relevant evidence because many are uninformed.

Mr. Lynch asked if the board is going to reject opinions of residents and accept the opinion of the developer.

Mr. Lamanna said he is not going to do that. He explained that the board is not a legislative body, it is a judicial body and it has to take evidence, look at the evidence and it cannot say this is a nice thing because its decision will be appealed and a judge will decide.

Mr. Marks said it affects the quality of living there.

Mr. Lamanna said the board needs more evidence.

Mr. Marks asked Mr. Lamanna if he lives in Tanglewood.

Mr. Lamanna replied yes.

Mr. Marks asked Mr. Lamanna if he had a problem getting out onto Route 306.

Mr. Lamanna said yes, it is a problem.

Mr. Marks said this will add to it.

Mr. Lamanna said six to eight units would have no traffic impact and there would have to be many units for a measurable impact and what the board is looking at are things relevant to its decision, things that can help the board.

Mr. Lynch said the applicant has the burden and if the board needs evidence other than opinions, it should be denied.

Mr. Lamanna said there is no evidence to say the property values would be affected and it would be more helpful if they have a real estate person.

Ms. Sue Davis stated that she was not going to testify so she was not sworn in and asked the chairman to swear her in.

Mr. Lamanna swore in Ms. Davis.

Ms. Davis testified that she has lived in Bainbridge Township for 30 years and has been a real estate broker for the last 17 years and her personal opinion is if the condos were to be built, it would have a favorable impact on the condos already there.

Mr. Lamanna asked on what basis.

Ms. Davis said it is favorable when higher end residential goes in and added that this project will screen the existing condos from the road. She said she is the realtor and has a letter of intent and several people looked at the house as a house but it is 10' from the street and it has been a long time to sell it and get an accepted contract. She said if she were to live in those condos, she would rather go with a given promise because someone will come in and have money to push the issue and it will become commercial.

Mr. Lamanna asked what the list price is.

Ms. Davis said it listed for \$230,000.00 but cannot get an acceptable offer as a single family residence because it is close to Route 306 and the hill.

Ms. Nancy Connell asked if the house is not acceptable, why would condos that close to the road be acceptable.

Ms. Davis said if someone would live there, they could have a home occupation.

Mr. Lamanna explained home occupations and said with any property, in theory, someone could buy it and use it as a residence.

Ms. Connell asked if part of the problem is the price.

Mr. Lamanna asked Ms. Davis if she has had other offers.

Ms. Davis said yes, but they were far below and not doable and she cannot share the information on the offers.

Mr. Lamanna said that information is relevant.

Ms. Davis said she cannot tell out of her mouth because it would be breaking her fiduciary responsibilities.

Ms. Hannan asked if there are children in the condos, if the school bus will have to stop on the hill.

Mr. Lamanna replied yes.

Mr. David English said this is a hardship to the existing property owner and their house appreciated, but as the road built up, the house value went down and that to him is the hardship. He said it is depriving the existing owner of real property value because of what has gone up around it.

Mr. Lamanna said the board needs some evidence that it is a hardship. He said it is a difficult piece of property and close to a major highway so the board is trying to consider what options may be available. He said they could tear down the house and build another residence, and the house could end up very wide and closer to the rear property line.

Mr. Bob Nailler of 8546 Tanglewood Trail testified that he lives in condo #3 and is on the board of managers and said if we go ahead with this he will walk out his front door and look at the condos that will be 25' away and the residents would like the board's consideration to reject this request. He said they could tear the house down, move it back or construct a new house and we appreciate your consideration. He showed the board, on the site plan, where his condo is located and added that he walks out his back door to the golf course.

Ms. Connell said there will be no green space for those condos so it will lessen the value of their properties.

Mr. Lynch asked if the proposed setback is 25' all around and from the road.

Mr. Winovich said it is 50' from the right-of-way of Route 306.

Mr. English said the house is 6' from the right-of-way now.

Mr. Lynch said the house seems to be a similar distance back.

Mr. Lamanna said if we look at the dimension from the right-of-way, his unit will be 44' back further.

Ms. Hannan asked about the proposed landscaping on Route 306.

Mr. Winovich said they are mounds.

Ms. Hannan said there is no landscaping buffering for the existing condos.

Mr. Winovich said that is right, but there will be.

Ms. Hannan said all of the trees will be destroyed.

Mr. English said he hopes not.

Ms. Connell said the property is raised up from the condo driveways.

Mr. Lamanna said there are drainage restrictions on the properties and all of the run-off from the buildings will have to be collected and sent somewhere.

Ms. Connell said sometimes it is sent to a neighbor's yard.

Mr. Lamanna said there is a storm ditch on Route 306 that flows on down to a river there and if they would go ahead with this, requirements would be made so that they will have to collect it and manage it and any developer then will have to manage the storm water to make sure it will not go onto the neighboring properties.

Ms. Jackie Nailler of 8546 Tanglewood Trail stated that she would like to speak but was not sworn in.

Mr. Lamanna swore in Ms. Nailler.

Ms. Nailler testified that there are 26 units in condo #4 and when they walk out their front door, they see apple trees and deer now and she will walk out her front door to the back of condos 25' away and added that they are asking to be 25' from her property line instead of 100' and that is a lot.

Mrs. Stanton asked about the overall dimensions of the lot.

Mr. Winovich said the lot is 1.65 acres including the right-of-way and 1.52 acres without the right-of-way.

Mr. Lamanna asked about the frontage.

Mr. Winovich said it is around 200'.

Mrs. Stanton asked if the drive will be where the current drive is.

Mr. Winovich said no and explained the location of the driveway because Mr. Ciciretto wanted the drive to be at a 90° angle to Route 306 and thought it would be a more safe drive. He said it is a 40 mph zone and well beyond the 250' line of site distance to the crest of the hill.

Ms. Connell asked the board members if they were aware of the green space that the condos have now and their condos will have less.

Mr. Lamanna said it is at 31% lot coverage for their development and includes everything and the drive.

Mr. James Connell of 8516 Tanglewood Trail testified that three of the existing condo buildings are on the golf course and these will be on Route 306.

Ms. Hannan said when those condos were built, the idea was that the green space would always be there and we don't feel hemmed in there. She said that the proposed condos will be 25' – 15' off of their driveway.

Mr. Connell said some of the condos are on the golf course so the green space does not feel limited.

Mr. Lamanna said the new street will feel a greater effect of no green space.

Mr. Lewis said his initial thought is trying to be sensitive to existing property owners and when they made their decision to buy, it was based on aesthetics and one of the finite pieces surrounding those condos was a single family dwelling landlocked by condos so the idea it would ever be developed is shocking. He said the road is challenging and difficult and during inclement weather it is extremely dangerous and the variance request is rather robust. He asked if the 25' setback is on all sides.

Mr. Winovich replied yes.

Mr. Lewis asked about the dwelling sizes and said for the record, he would like it clarified again.

Mr. English said there is no final plan but there will be two units, side by side, one being a 1,500 sq. ft. ranch and one being a 2,200 sq. ft. two-story.

Mr. Lewis said with regards to the cluster development and conditional use aspect, there are some conditions that need to be met. He said there are sections in the code that talks about drainage, providing common space regarding cluster regulations, etc.

Mr. Winovich said they have a land planner and referred to Mr. Steve Ciciretto and Mr. Craig Cawrse and we value their opinions on that part of the code and agree with 100% of the code.

Mr. Lewis asked Mr. Winovich if is not going to speak about the cluster regarding Chapter 135 of the zoning regulations.

Mr. Winovich said they will have to bring that back to the board.

Mr. Lewis said the code states that the required front yard setback is 100' but this application shows 50' with a variance of 50'.

Mr. Winovich said they are looking to be consistent with the surrounding parcels there now.

Mr. English said the normal right-of-way is 30' from the centerline of the road but going down the hill, the right-of-way is 70' by the golf course with an additional 40' that does not get reflected in the setback.

Mr. Lewis said there is around 30' plus or minus between the structures.

Mr. Winovich explained the setbacks and said on the north side there is 40' between those two buildings.

Mr. Lynch said the proposed drawings show that they are 20' apart.

Mr. English said that originally there were to be 12 units and by dividing them into four two-unit buildings, that is why we are down to 20' between a couple of the buildings.

Mr. Lewis said he is struggling with the hardship because he knows the land is useful as it is and added that the traffic is difficult with one unit or eight and questioned the economic welfare.

Mr. Takacs said he has a problem with all of the variances and it is a significant issue with the traffic and he has a hard time with the whole proposal.

Mrs. Stanton said she has a problem with the 25' setback and understands they are trying to make it viable, but the project is way too dense and she is not sure from the drawings if there are decks on the backs of these condos and she does not want people coming back for decks and being 15' off the property line.

Mr. Winovich said they would like to speak to that at another meeting and added that these are envelopes and there could be decks within the envelopes and there is enough parking for four cars per condo.

Mrs. Stanton said there are certain requirements that the board has to look at.

The board discussed entering into executive session for deliberation on this application.

#### EXECUTIVE SESSION

Mr. Lamanna moved that the Bainbridge Township Board of Zoning Appeals go into executive session for the purpose of considering application 2005-44.

Mr. Lewis seconded the motion.

Vote: Mr. Lamanna, aye; Mr. Lewis, aye; Mrs. Stanton, aye; Mr. Takacs, aye.

The board of zoning appeals recessed the public hearing at 9:10 P.M. in order to go into executive session for the purpose of considering application 2005-44.

The board of zoning appeals returned from executive session after considering application 2005-44 and reconvened the public hearing at 9:31 P.M.

Mr. Lamanna stated that the board members examined the proposal before them and it is a difficult problem for them because of the location and surrounding characteristics and the board also has a problem with the proposal that has been presented. He said the board is concerned with the adverse impact on the surrounding property owners, the amount of setback and density and the potential for well water on the site. He said it is not consistent with the current large acre zoning and the board is concerned with the traffic and impact and the minimum amount of variances to make a viable use of the property. He said the board is also concerned that there is only a 25' setback with eight units. He said the current surrounding property owners have to understand that the property will not remain in its current state and would have other concerns and the setback would be 50' and because of the nature of the lot, it would not be any farther than 50' away. He continued by saying that at this time, the board's inclination is to deny the application, the application can be withdrawn or tabled to see if it is feasible to do this plan with fewer units and the applicant needs to present information on the economic viability of the project and why the project would not be viable with a smaller number of units and why it would not be possible.

Mr. Winovich said they would like to table the application and return to the board.

Mr. Lamanna told Mr. Winovich that he heard the concerns expressed here, the valid objections, the closeness of the buildings and said a smaller density would mitigate some of those objections.

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

#### Motion BZA 2005-44 – 17477 Chillicothe Road

Mr. Lamanna made a motion to table this application to the next regularly scheduled meeting to be held October 20, 2005 or November 17, 2005 subject to the applicant submitting new information 30 days prior to the meeting date.

Mrs. Stanton seconded the motion.

Vote: Mr. Lamanna, aye; Mr. Lewis, aye; Mrs. Stanton, aye; Mr. Takacs, aye.

Application 2005-52 by Lisa Harry for property at 7045 Aurora Road

The applicant is requesting a conditional use permit with variances for the purpose establishing a hand car wash, hand car wax and hand car detailing center. The property is located in a CR District.

The zoning inspector's letter dated August 31, 2005 was read and photos of the site were submitted.

Ms. Lisa Harry was present to represent this application.

Ms. Harry testified that this property has been in her family since 1963 and it was once a car lot, feed store and landscaping business. She said she inherited the property from her father and honored the lease for the landscaping company and had to hire an environmental company to clear the lot. She said for the last three months, she has worked on the inside of the building and added that there is one big building in the back and a front building for the offices, waiting lobby, supply area and there is already some asphalt and concrete there. She said she asked Mr. McIntyre if she can re-asphalt the area and he said no problem. She explained the reason for the variance request and that is because Walmart has a tire changing and oil changing business and there is a 3,000' restriction between two similar locations. She said she will only clean and wash cars here and she is before the board to ask for the granting of this variance.

Mr. Lewis asked how far away Walmart is.

Mr. Orłowski testified that Walmart is 1,500' away.

Ms. Harry said they measure it on the straight away so it is a rather substantial variance. She added that she had to have an environmental company clean out all the debris and in the future there will be 25' all around the building with trees and grass and she would like to have some amount of curbing.

Mr. Lewis asked about proposed signage.

Ms. Harry said she would like to put two signs up (3' x 5') in an area in front of the building on a sign post and added that when they finish Aurora Road she will re-adjust the post and she will use one sign on the building and one as a land sign. She continued by saying that the landscaping company ruined her 300' well and she had to re-do all of her plumbing.

Mrs. Stanton asked about the hours of operation.

Ms. Harry said the hours will probably be 8:00 A.M. to 9:00 P.M. but she does not have a real format for the hours yet but it would not be open later than 8:00 P.M. and will probably be open on Saturdays from 8:00 A.M. to 8:00 P.M. and on Sundays from 9:00 A.M. to 1:00 P.M.

Mr. Takacs asked about the number of employees.

Ms. Harry said there will be four detailers and a car washer, two per car and if a detailing car comes through, they would take one employee to do the detailing and there will be a cashier or manager in front for a total of five employees.

Mr. Takacs asked how many cars can be done in an hour.

Ms. Harry said five cars could be done per hour with a maximum of seven per hour.

Mr. Lamanna asked if the property is hooked into the sewer.

Ms. Harry said definitely, and there is a second drain for rainwater and drainage. She said she had a problem with the wetlands until Mr. McGill developed the adjacent property and she called him to see if her property could get connected to the public sewer.

Mr. Matt McGill testified that there is a sanitary line on Aurora Road for the McGill property.

Mr. Lamanna asked where the water will be sent from the car washing.

Ms. Harry said there will not be that much water because of the pressurized washing.

Mr. Lamanna asked if the water will only be used by the employees.

Ms. Harry said yes because of the well but it is a fantastic system with 15 gallons per minute.

Mr. Lamanna said it is a pretty wet area to start with.

Mr. Takacs said with a leach field and that kind of water, it will be wet all the time.

Ms. Harry explained the 5,000 gallon septic system and said the leach field goes to the wetland area.

Mr. Lamanna said there will be a sanitary sewer within reason to tie into but with a 5,000 gallon tank and with hand washing cars that is enough capacity to handle the water.

Ms. Harry said the landscaping business needed a bigger tank because they used a lot of water and added that she will pave the parking lot because she cannot have mud.

Mrs. Stanton asked about proposed lighting.

Ms. Harry said there are two street lights and explained the existing lights on the building.

Mrs. Stanton asked if there will be any light spillover.

Ms. Harry replied no and said if it is 9:00 P.M. at night and dark, they will not be there and added that there will be no lights peering into homes.

Mrs. Stanton asked about the metal gate.

Ms. Harry said she will get rid of it.

Mr. Lamanna asked if there will be any cars kept overnight.

Ms. Harry said she would like to apply for a car dealership some day but the cars would be located inside the building if kept overnight. She explained what area would be for the exit and said the cars will enter on the east and exit on the west.

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

Motion BZA 2005-52 – 7045 Aurora Road

Mr. Lamanna made a motion to grant the applicant a conditional use permit for the purpose of establishing a car wash, car wax and detailing facility.

Subject to the following condition:

1. Cars will not be parked on the west side of the building.

The board also grants the following variances:

1. A variance from the minimum required front yard setback of 100' to 42' for a variance of 58'.
2. A variance from the minimum required side yard setback of 15' for a variance of 85'.
3. A variance from the minimum required side yard setback of 80' for a variance of 20'.
4. A variance from the minimum required rear yard setback of 100' to 88' for a variance of 12'.
5. A variance from the requirement that no part of such premises is located within 3,000' from any lot line of another lot of service station garage or repair garage use.

Based on the following findings of fact:

1. This is a pre-existing building and these variances reflect the location of that building.
2. With respect to the requirement that the premises must not be located within 3,000' of another service station, garage or repair garage, the board finds that the Walmart location is substantially distant especially given the fact that it is at the far back end of a shopping center type arrangement and the type of businesses are substantially different so that this would not create any of the adverse conditions which this restriction sought to prevent.

Mr. Takacs seconded the motion.

Vote: Mr. Lamanna, aye; Mr. Lewis, aye; Mrs. Stanton, aye; Mr. Takacs, aye.

Application 2005-47 by Bainbridge North Land Development LLC for property at 7044 Aurora Road

The applicant is requesting area variances for the purpose of creating a lot split. The property is located in a CR District.

Application 2005-49 by Bainbridge North Land Development LLC for property at 7044 Aurora Road

The applicant is requesting area variances for the purpose of creating a lot split. The property is located in a CR District.

The board was in agreement to hear both applications 2005-47 and 2005-49 together.

The zoning inspector's letters dated August 24, 2005 were read and photos of the site were submitted.

Mr. Matt McGill of Bainbridge North Land Development LLC was present to represent this application.

Mr. McGill testified that application 2005-47 is the Target parcel. He explained the setbacks and said the side yard setback is due to the fact that it is in line with another building next door. He said the lot coverage will be 71.46% for a variance of 31.46% on this parcel but the overall lot coverage will stay with the approval given for the shopping center back in March.

Mr. Lewis asked Mr. McGill if he was familiar with the lot splits across the street.

Mr. McGill replied no.

Mrs. Stanton asked if Target and Home Depot will own their own lots.

Mr. McGill said yes and they will build their own buildings, but we will do the landscaping etc.

Mr. Lamanna asked if an agreement/declaration was filed regarding this.

Mr. McGill said they would abide by any condition set by the board and noted that both variances reflect the site plan that was previously approved.

Mr. Lamanna said the board will put the same conditions on it but it will need a Declaration of Covenants and Restrictions submitted for the board to review and told Mr. McGill that he would have to be willing to agree that everything will be done as a whole and not individually.

Mr. McGill stated that none of the lot splits across the street are actually owned by the tenants.

Mr. Lewis asked if there is a time limit for the document to be submitted by the applicant.

Mr. Lamanna said they have no variance until it is submitted.

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

#### Motion BZA 2005-47 and BZA 2005-49 – 7044 Aurora Road

Mr. Lamanna made a motion to grant the specific variance requested for each of these proposed lot splits as they have been prepared by the zoning inspector on August 24, 2005. The board is consolidating these two decisions due to the fact that these applications are essentially subject to the same findings of fact and conclusions of law and the same standards and decisions and the same conditions will apply to both of them. These variances pertain to the particular parcels that would be created and are particular to those parcels as a result of those parcels not complying with the normal requirements for development in this particular district.

Based on the following findings of fact:

1. When compliance with the condition that the deed restrictions substantially in the form as specified is executed, it will result in no change to the previously approved overall development plan for this piece of property.

Motion BZA 2005-47 and BZA 2005-49 – 7044 Aurora Road - Continued

2. When considered as a whole, these deed restrictions will require the parcels to be considered in a way that the development will comply with all the previously approved development requirements, variances and other applicable provisions of the township zoning ordinance and memorandums of understanding as they may have been modified in the previous variance approvals.
3. Upon completion of the granting of these variances, there will be no material change to this development or to its effect upon the township or the adjoining property owners.
4. The total effect of granting this variance will be negligible and thus there is no reason not to grant the request of the applicant for the lot split.

The following conditions will apply to this variance and the applicant has agreed to these conditions and without these conditions the board would not make the preceding findings of fact and granting of the variance.

1. The applicant will require this project and all of the parcels that will be created to be considered as a single development, to follow all of the restrictions and agreements that have been attached to this development and to otherwise comply with overall lot coverage which has been previously approved and all of the applicable requirements of zoning and any memorandums of understanding with Bainbridge Township. This variance will not become effective until the applicant has submitted a Declaration of Covenants, Conditions and Restrictions substantially similar in form to that used at the Market Place at Four Corners Shopping Center.
2. The said declaration has been approved by the zoning inspector and executed and filed at the Recorder's Office of Geauga County.

Mr. Takacs seconded the motion.

Vote: Mr. Lamanna, aye; Mr. Lewis, aye; Mrs. Stanton, aye; Mr. Takacs, aye.

Application 2005-48 by Bainbridge North Land Development LLC for property at 7044 Aurora Road

The applicant is requesting area variances for the purpose of creating a lot split. The property is located in a CR District.

Secretary's Note: This application was removed from the agenda by the zoning inspector.

Since there was no further testimony, the public hearing was closed at 10:22 P.M.

Respectfully submitted,

Michael Lamanna, Chairman  
Todd Lewis, Vice Chairman  
Mark Olivier  
Ellen Stanton  
Donald Takacs

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

Date: October 20, 2005

Bainbridge Township, Ohio  
Board of Zoning Appeals  
September 15, 2005

The regular meeting of the Bainbridge Township Board of Zoning Appeals was called to order at 10:22 P.M. by Mr. Michael Lamanna, Chairman. Members present were Mr. Todd Lewis, Mrs. Ellen Stanton and Mr. Donald Takacs. Mr. Mark Olivier was absent.

Minutes

Mr. Lamanna made a motion to adopt the minutes of the August 18, 2005 meeting as written.

Mr. Lewis seconded the motion.

Vote: Mr. Lamanna, aye; Mr. Lewis, aye; Mrs. Stanton, aye; Mr. Takacs, aye.

Applications for October 20, 2005

Application 2005-44 by Brian Winovich for property at 17477 Chillicothe Road -  
Continuance

The applicant is requesting area variances for the purpose of constructing multi-family residential – condominiums. The property is located in a R-3A District.

Application 2005-53 by RCV Investments for property at 8388 E. Washington Street

The applicant is requesting area variances for the purpose of replacing a former retail (hardware) store with a new building for a game arcade. The property is located in a CB District.

Application 2005-54 by James C. Adair for property at 8765 Taylor May Road

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

Procedural Rule – Court Reporters

Mr. Lamanna made a motion to adopt a procedural rule with respect to requests to have court reporters present at meetings and to have those transcripts become part of the record.

1. The applicant must request at least one week in advance to have a court reporter present.
2. The proceedings of the court reporter will become a part of the record to supplement the official record as taken by the secretary to the board but will not supersede that record.
3. Prior to that transcript becoming an official part of the record, the applicant must at the applicant's sole cost, furnish a copy of the transcript to the secretary of the board for the board's review to determine the accuracy of that transcript.

Mr. Takacs seconded the motion.

Vote: Mr. Lamanna, aye; Mr. Lewis, aye; Mrs. Stanton, aye; Mr. Takacs, aye.

Since there was no further business, the meeting was adjourned at 10:35 P.M.

Respectfully submitted,

Michael Lamanna, Chairman  
Todd Lewis, Vice Chairman  
Mark Olivier  
Ellen Stanton  
Donald Takacs

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

Date: October 20, 2005