

Bainbridge Township, Ohio  
Board of Zoning Appeals  
September 15, 2016

Pursuant to notice by publication and ordinary mail, the public hearing was called to order at 7:06 P.M. by Mr. Michael Lamanna, Chairman. Members present were Mr. Ted DeWater; Mr. Joseph Gutoskey; Mr. Todd Lewis and Mr. Mark Murphy. Mr. Jason Maglietta, Alternate was present for application 2016-25. Ms. Karen Endres, Zoning Inspector was present.

Mr. Lamanna welcomed everyone to the regular meeting of the Bainbridge Township Board of Zoning Appeals. He then explained the hearing process and noted that the applications will be taken out of order.

Application 2013-35 by Eric Smith (C-4 Holdings) for property at 16625 Wren Road - Continuance

The applicant is requesting variances for the purpose of expanding a warehouse. The property is located in a CB District. *This is on the agenda for the purpose of dismissal.*

Mr. Lamanna moved to dismiss this application for failure to prosecute forward the application.

Mr. Gutoskey seconded the motion.

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

Application 2016-24 by Diane and David Sands for property at 8521 Peppermill Run

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

Mr. Lamanna moved to dismiss this application at the request of the applicant that it be withdrawn.

Mr. Lewis seconded the motion.

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

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

Application 2016-25 by Emeil Soryal for property at 17360 Wood Acre Trail

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

Mr. Joe Gutoskey recused himself from this application.

Mr. Jason Maglietta, Alternate was present to replace Mr. Gutoskey for this application.

Mr. Emeil Soryal was present to represent this application.

Mr. Soryal presented additional photos to the board.

Mr. Lewis said before we talk about the new structure it looks like you (Mr. Soryal) are looking for other structures, swimming pool, fencing, decking and patio be permitted and asked if these are all existing.

Mr. Soryal testified by saying correct.

Mr. Lewis asked if the township had knowledge of those going in.

Mr. Soryal said no.

Mr. Lewis asked if you (Mr. Soryal) put those in.

Mr. Soryal replied yes and there was only one that he added, the others were already there.

Mr. Lewis asked which was added.

Mr. Soryal said it is what he would call the treehouse and referred to picture #1 with the yellow slides.

Mr. Lewis asked if the pool was there when he bought the house.

Mr. Soryal said no he put that in, an above ground pool.

Mr. Lewis asked about the deck.

Mr. Soryal said that was already there.

Mr. Lewis said we need to get a clarification of this riparian area and where exactly that exists on this property and get that established first.

Ms. Karen Endres, Zoning Inspector testified that she met with Ms. Colleen Sharp of Geauga Soil & Water Conservation District on the property and there is a riparian area and it kind of cuts through this area here (she referred to the aerial map) so part of his patio and parts of the tree house are within the riparian area. She said she asked Ms. Sharp what the impact would be and she didn't think that those structures would have a negative impact on the watershed.

Mr. Soryal said as you can see in that picture the treehouse is about 7' above ground.

Mr. Lewis asked if it is on stilts.

Mr. Soryal replied yes and based on the survey roughly about 5' – 7' of that treehouse is in the riparian.

Mr. Lewis asked if the 12% lot coverage is not existing, it would be with the proposed new structure.

Ms. Endres said that would be the lot coverage with the new structure and the existing structure.

Mr. Soryal asked if that is counting the water, the lake, the pond.

Ms. Endres said she didn't think it includes the pond, there are two different calculations, one with and one without. She said the lot coverage including the pond would be greater than 12.1%.

Mr. Lamanna asked if the pond is considered.

Ms. Endres said if you look at the definition of structures ponds are included as structures and lot coverage is basically all structures.

Mr. Lamanna said he can understand ponds being included as structures for one purpose, he is not sure it makes a whole lot of sense that they be considered lot coverage. He said he can understand why they are considered structures because you don't want people just willy-nilly putting in ponds.

Mr. Murphy said the pond was there because somebody else dammed that little creek so the riparian there was dammed before you (Mr. Soryal) got the house.

Mr. Soryal said way before he bought and he thinks it was there before the house was built.

Mr. Chris Smith of 17340 Wood Acre Trail testified by saying no.

Ms. Endres said that is the riparian overlay.

Mr. Lamanna asked if that was created before or after the house was built or before or after the pond was put in.

Ms. Endres said she couldn't say and that is why she and Ms. Colleen Sharp went out and took a look, when you get into these things you have to go and take a look, you can't completely rely on the riparian layer, you have to go onsite. She they were able to identify the riparian area and it goes a little bit into the patio, the little dock but the pool is outside the riparian area.

Mr. Lamanna said we probably didn't know where the riparian area was originally with all of the construction and the pond being created and everything else.

Ms. Endres said the reason the riparian setbacks are there is to protect the watershed and the other is to actually protect the property owner's property.

Mr. Lamanna said to protect it from being swept away.

Mr. Murphy asked if downstream is to the north in this picture, is that the dam, where the end of the pond is in the middle of that photograph up there, is that a dam.

Mr. Soryal said no the water runs down to the bottom.

Mr. Murphy said so downstream to the south.

Mr. Soryal said in the last picture he has you can see the water running away.

Mr. Murphy said so it flows underneath E. Washington.

Mr. Soryal said correct.

Mr. Chris Smith said he doesn't think there is a pipe under E. Washington.

Mr. Soryal said yes there is.

Mr. Lewis asked how he plans to get to the new building with the riparian.

Mr. Soryal said he can drive over there, there is a little pipe and a grass area and you can see that in the photo.

Mr. Lewis said you have a drive with a drainage pipe.

Mr. Soryal said correct.

Mr. Murphy said you replaced the little shed.

Mr. Soryal said you can see the before and after in the picture.

Mr. DeWater asked Mr. Soryal if he put the drainage pipe in.

Mr. Soryal said no.

Mr. DeWater said so that was there.

Mr. Soryal said they cleared the area out, it was overgrown and they cleared it up. He said the original plan shows two 24" pipes that currently don't exist.

Mr. Lamanna asked if the pond was ever approved originally.

Ms. Endres said there is no record in the file.

Mr. Lamanna said there is a picture here with a proposed lake shown from 1979, it was in the packet.

Mr. DeWater asked Mr. Soryal how long ago he built the tree house.

Mr. Soryal said about eight years and it really started off literally as a treehouse where the two slides are and then eventually he put the stairs in and built a bridge to connect it to the house, literally it was just a treehouse on the tree.

Mr. DeWater said and you didn't realize then that you needed a permit.

Mr. Soryal said honestly he was building a treehouse for the kids and he guesses when he built the bridge he should have come in and asked, he was just building a treehouse for the kids.

Mr. DeWater said during the heavy rains we just had did the patio get flooded as a result.

Mr. Soryal said yes and it almost came to the house but it didn't and added that that is a big part of the problem, the pipe under Washington Street that is full of rocks. He said he has gone to the township and was told it was a county problem and he goes to the county and they say it is a township problem so nobody takes care of it so when we get a lot of rain that water runs all through his property onto Washington Street, there is an 8' hole that gets filled up and soon enough it will be over the street because it is half filled with rocks.

Mr. Murphy asked if Gary Spurber was the first person who built the house, March 30, 1979 and if this is a plot plan for the original construction of this building which is the house and the garage, the proposed septic tank and the relocated creek at the uphill side of this lake. He said he thinks when that development went in in the early eighties that pond went in. He asked if anybody knows any better or do we even care. He said the pond is part of this issue that has moved, and it states that they have relocated the creek so the riparian might be what they think is up there but in fact the riparian is that pond and it goes somehow across E. Washington to the south at some times. He said it shows a pond, it shows an invert, an outflow and overflow, it is a designed pond.

Mr. Soryal said the street has a couple of other ponds uphill and all of the water runs and his is the last one before it goes into the street so all of the water comes gushing into his pond and then out. He said in the last picture you can see the water run that way.

Mr. Lamanna said if the pond was built back then, the pond does predate the riparian.

Ms. Endres said the pond was there in the year 2000.

Mr. Dennis Clemmer of 17345 Wood Acre Trail testified that he has lived on the street since 1986 and it was there in 1986.

Ms. Endres said the aerials show the pond in 1990 so the pond has been there since 1990 at least based on aerials.

Mr. Lamanna said the pond looks like to goes back to 1979.

Mr. Murphy said he has a drawing from the homeowner in 1979.

Mr. Lamanna said we don't know about all of the stuff along the edge, it looks like there is some kind of retaining wall.

Mr. Soryal said there are boulders, big rocks that he put in himself and asked Mr. Lamanna if that is what he was referring to.

Mr. Lamanna said so you have added boulders along the edge.

Mr. Soryal replied yes, just on the one side of his house to prevent erosion, every season when the water freezes this thing keeps growing and he wanted to prevent that from happening so he put the boulders in there.

Mr. Murphy asked who put the original accessory structure up, the white shed that was replaced.

Mr. Soryal said he put the white shed in but there was one before that that was removed when he bought the house, the plans always showed a shed in there.

Mr. Lamanna asked Ms. Endres if we have a delineated riparian now.

Ms. Endres said not on paper but when she and Ms. Sharp went out they did some measurements and determined that it doesn't go quite as far in toward the house as what it shows on there.

Mr. Soryal asked if the survey shows that.

Ms. Endres said the survey pretty much matches very close to what Ms. Sharp measured.

Mr. Lewis said so the riparian goes under the treehouse, under some of the patio but not underneath the swimming pool.

Mr. Soryal said no.

Mr. Lewis said with this new building they are over 10% either way because right now it is not calculated in.

Mr. Lamanna said technically it is a structure and to him it doesn't seem like it ought to be calculated, it needs to be a structure to regulate it as a structure but he doesn't think it really quite fits when you are looking at it for the purposes of lot coverage.

Mr. Lewis said it is a body of water.

Mr. Lamanna said it would otherwise be a natural feature, if he didn't create the pond, if the pond was there then it is not counted as lot coverage if it is not a structure if it was a naturally existing pond but if it is artificially created it is counted.

Mr. Maglietta said it has been there for a while.

Mr. Lewis said it has been there since 1986 or 1987.

Mr. Lamanna said he is just trying to get a handle on what the board is trying to deal with here because basically all of these projects, putting all of these rocks in, that requires a zoning certificate. He told Mr. Soryal that he should have gotten a zoning certificate for bank stabilization.

Mr. Soryal asked natural rocks.

Mr. Lamanna said yes natural rocks. He said this is the thing with riparians, if you want to try to go in there and do anything with that you've got to come and get a zoning certificate for it to make sure that it complies.

Mr. Soryal replied okay.

Mr. Lewis said it is a learning experience.

Mr. Lamanna said you don't want to end up dealing with the Corps of Army Engineers at some point in time because somebody comes and thinks you messed up a regulated waterway.

Mr. Soryal said he would love for them to come and fix that pipe that is clogged.

Mr. Lamanna said it is unfortunate that what people don't understand now is once you've got one of these features you can't get rid of it or do anything to it unless you come and get permission to do things to it. He said you can't do things like stabilizing the banks.

Mr. Soryal said it is right by the house, it kind of makes no sense, if the water is coming into his house he has to do something.

Mr. Lamanna said you have to get a permit to do it you just can't do it.

Mr. Soryal said got it.

Mr. Lamanna said if we are going to deal with this thing he wants to make sure that we cover everything because at the end of the day he doesn't want there to be any loose ends.

Mr. Soryal said he is good with that and he understands.

Mr. Lamanna said he doesn't want that we covered 90% of it but 10% of the things weren't covered and then at some future date it comes up again or you go to sell the property and the new owner says where is the paperwork for this.

Mr. Soryal said he understands.

Ms. Endres said that is kind of why she wanted to have the pond talked about because it is considered lot coverage it is not a detention or retention pond.

Mr. Lamanna said it is one of those things that happens because you have one definition, you transfer it over and the definition is a big basket and sometimes things get caught in the basket that maybe really fit into the rationale for the use of that term.



Ms. Endres said absolutely so we talk about it tonight and either say yes it is considered toward the lot coverage or in this case include the pond in the lot coverage.

Mr. DeWater said another reason when you are dealing with waterways and rocks etc. and why you need permits, you need to make sure what you are doing in that waterway because it could affect somebody downstream if it does overflow.

Mr. Soryal said he totally understands that, he didn't make it any bigger or smaller.

Mr. Murphy said the thing is too this is 1979 that says proposed pond, the EPA regulations do not allow you, in Ohio, to dam up a stream and so this pond if you are trying to propose this today would not be allowed and so it is your pond, he appreciates that, it has an overflow pipe that goes under E. Washington according to the engineer and added he has been driving by the pond for 30 years so at this point it is an existing pond in a riparian so do the people in the watershed, the people you have talked to, do they have recommendations for people that have these existing things that would be allowed today, you can't take a running stream and dam it ever again in northeast Ohio. He asked when the development went in, when was the road cut.

Mr. Chris Smith said 1978.

Ms. Endres said she doesn't know if they had riparians in 1978.

Mr. Murphy said no, we didn't.

Mr. Lamanna said there were no riparians in 2004.

Mr. Murphy said if you own the property and have a stream you can have a pond, those were the good old days.

Mr. Lamanna said starting in the 1980s and 1990s they were starting to be more heavily regulated.

Mr. Murphy said this was in 1979 and whoever developed this said this would be beautiful to add a pond and there are two or three more ponds up the stream and it is a beautiful neighborhood and that pond is gorgeous and it is an inviting feature and you can't build that today so now we have to deal with what is there. He said you don't own the pipe under E. Washington Street and we have seen pictures of what happens to your yard with a good rain and it is probably every year and it is coming right down along that.

Mr. Soryal said we have had a lot worse rains the last couple of years, he has been there for 12 years and this last fall was the worst by far.

Mr. Murphy said this riparian has a slightly dammed up feature that either the developer did or the road department accepted, it is there now.

Mr. Lamanna said somebody proposed a pond at one point in time because they submitted a drawing but he doesn't know if they just went ahead and approved that in 1979.

The board discussed when the subdivision was originally platted and the pond.

Mr. Murphy said the pipe and outflow with the invert is under E. Washington Street which was formerly called Greenville Road.

Mr. Lewis said the pond actually may slow the flow down a little bit and the culvert was probably installed long before this development because there was already a stream.

Mr. Murphy referred to a 1979 drawing that says that they had to relocate the creek to miss the septic tank.

Mr. Lamanna said they probably did that to make the lot more buildable.

Mr. Lewis said they had to do that just to have room to build the house.

Mr. Soryal said it is a corner lot so it makes the setbacks weird.

Mr. Lewis said we have an accessory building in place.

Mr. Murphy said the secondary accessory building replaced the first one.

Mr. Lewis said this drawing shows the 20' x 22' building and asked if that is the new one.

Mr. Soryal said that is correct.

Mr. Lewis said it is showing 51' off the side lot line.

Mr. Soryal said correct and he recently hired a surveyor so when he submitted his paper that was the best he had and he had run a string across from front to back and measured from that and that is what it was but when the surveyor came in and found the pins and actually gave him a specific number it was not what he had originally thought that it was.

Mr. Lewis asked if he can move it over 10'.

Mr. Soryal said no he can't. He referred to the photos, picture #9, he has trees there and all of the water runs right down the hill.

Mr. Lewis said that is why he can't move it from 39' off to 50' because there is just no place to put it and it is in the washout zone and you will have a houseboat. He said he understands the dimensions now and asked what the use is of this building.

Mr. Soryal said it is just a storage shed for tools and gardening and kids toys and he only has a two car garage so there is no way to make it any bigger because of the setbacks and everything else.

Mr. Lewis said nothing occupationally.

Mr. Soryal said no and added there is no power or water or anything like that.

Mr. Lamanna said he doesn't think the board needs to deal with the ornamental fence, it is 2' tall and will not get in the way of anything.

Mr. Soryal said if you look at picture #10 you can see the water running around and it is really not hurting anything.

Mr. Lamanna said you don't want to create a secondary dam.

The board discussed the ornamental fencing.

Mr. Lamanna said it is not going to get in the way of anything.

Mr. Lewis said he does not see it as an obstruction.

Mr. Lamanna asked Mr. Soryal if when he moved in if this area was already being used for a patio etc.

Mr. Soryal said yes it was just mostly a combination of gravel and grass. He said he has a walk-out basement so that is what leads right into it.

Mr. Lewis asked Ms. Endres if he meets all of the code obligations for fencing or anything around the pool itself.

Ms. Endres said it is an above ground pool so there really are no fencing requirements if the pool is higher than 52".

Mr. Lamanna asked about the boat dock from the picture.

Mr. Soryal said it is just a little platform to stand and fish.

Mr. Lewis asked if it is in the riparian.

Mr. Soryal said the little one is only 4' x 5' and showed the board where the bigger one and little one is located.

Mr. Lewis asked if the two platforms that are not boat docks are structures.

Ms. Endres said they are like decking and decks are structures.

Mr. Lamanna said the map is not conclusive, right.

Ms. Endres said right and it is quite a challenge measuring 25' from where the stream would be within that lake.

Mr. Lamanna asked if it is measured from where the stream would be.

Ms. Endres said we talked about that at one point of where do you measure from, where the stream would be, or do you measure from the edge of the lake, that varies.

Mr. Lamanna said there is still a mean water height and generally on a lake the mean water height is pretty well established so wherever the edge of the lake is the riparian is at least where the water is.

Mr. Murphy said what he is reading from the meeting with Ms. Colleen Sharp is that this is not really a riparian issue.

Ms. Endres said it is riparian but she didn't see this as compromising the structures that are within the riparian area were adversely affecting the watershed.

Mr. Murphy said what we have is a shed that is over the maximum accessory building size.

Mr. Lamanna said yes because the lot is only two acres.

Mr. Murphy asked if Wood Acre Trail predates any of our zoning.

Mr. Lamanna said yes the two acre lot predates, it is a non-conforming lot of record so that is why the 300 sq. ft. limitation comes into play.

Mr. Murphy said that 300 came after they built the development.

Mr. Lamanna said yes, that came after they built the development.

Mr. Murphy said but he built the bigger structure after.

Mr. Lamanna said this is a regulation on pre-existing non-conforming lots of record and if you have one you cannot build more than a 300 sq. ft. accessory structure on it.

Mr. Murphy asked if there are any neighbors here.

Mr. Chris Smith of 17340 Wood Acre Trail testified that he is not sure what pictures he has taken.

Mr. Lamanna asked if he is upstream or downstream.

Mr. Smith said he is upstream and he has some aerial views of Mr. Soryal's property. He said that is the first one in 2000 before he lived here, this is what was on the lot and in 2006 after he moved in he built a new accessory building and this is what was on the lot and in 2013 there was a lot of construction with a new deck in the front, a new deck on the side and he calls it a treehouse but he has tables and chairs on top if, I call it a deck. He said he has another deck in the back, two docks and the most recent one was the swimming pool, there is an awful lot of lot coverage there as far as what he sees and over the years he never said anything, he thought he pulled permits for everything and recently a large building showed up on his property right out his window which he couldn't believe and he came up to see if permits were pulled and they said no, no permits. He said Mr. Soryal is in the building business and he knows that permits are supposed to be pulled and he is not sure what variances he is here for but he thinks a lot of variances are needed for this, there should be a height variance, it is over 15'.

Ms. Endres said the back of the building looks like it is right at 15' but the front of the building is a couple of inches more than 15'.

Mr. Smith asked if someone physically measured it.

Mr. Soryal said the surveyor measured everything.

Mr. Smith asked if he measured the height and he is not sure what the setbacks are.

Mr. Soryal told Mr. Smith that he is welcome to come over and check.

Mr. Smith said he is not sure what the setbacks are but it is a substantial size building for a little two acre lot and we are talking about a pond the percentage of lot coverage for a pond, he thinks the 10% also applies to the septic systems in their neighborhood, we have septic and 10% is the coverage of a lot allowed for septic in a backup septic field.

Mr. Murphy said he didn't think so.

Mr. Smith said this is a two acre lot with a lot of coverage on it with a septic field, it really encroaches on the amount of run-off and septic field and other things and the pond is right in the middle of it all.

Mr. Murphy asked Mr. Smith how long he has been there.

Mr. Smith said since 1994 and he has lived in the neighborhood since 1970 and in 1978 when it was cut there, he is pretty familiar with that road.

Mr. Murphy said and the pond went in right away.

Mr. Smith said he has no idea when the pond was put in but he knows the road was cut in 1978, he doesn't know when the pond was put in but the pond has been changed multiple times, dredged, the stream has been changed where it exits on his property and killed all of his trees, there has been a lot of stuff that has happened with that pond over the years. He said it was dredged once and the stream used to go on his property and then come back onto his and go back on and when they dredged they decided to eliminate that which he told them it was going to kill his trees and was a nice neighbor and didn't report them.

Mr. Soryal said but that was him right.

Mr. Smith said it was before Mr. Soryal but over the years you get a little sore about things going on over and over and over.

Mr. Murphy asked Mr. Smith if this is him in the bottom of the picture.

Mr. Smith said yes.

Mr. Murphy said you are not actually up against his driveway.

Mr. Smith said his driveway is up against my property.

Mr. Murphy said but your driveway is up against your neighbor's property.

Mr. Smith said it is close but no, his is about 2' off and mine is about 10' off. He said when he looks out his back window that is the building we look at. He said his other building which was a pre-existing accessory building, we didn't even see it, it was small enough, it didn't jump out at you.

Mr. Murphy said that is the same shot and you are saying the white one didn't show up in the woods but the gray one bothers you.

Mr. Smith said the gray one definitely does and added that his house is up for sale and he is worried about property values and his real estate lady was in before that was built and she came back later and stood in the back window and asked where did that come from.

Mr. Lewis asked Ms. Endres how far is it from this gentleman's house to that white shed.

Ms. Endres said it is approximately in the same location.

Mr. Lewis said the new one is 10' closer to the property line.

Ms. Endres said it is a little over 200'.

Mr. Smith said right now the leaves are on the trees but when the leaves come off he is sure he will see it.

Mr. Lewis said when the leaves fall down he can see his neighbor's house too.

Mr. Smith said it is obvious now so it will be more obvious when the leaves are off the trees.

Mr. Lamanna said if it was moved 10' away how would that really change.

Mr. Smith said he is looking at the variances and he thinks the lot coverage and size is the issue here and he thinks he has to apply for the side setbacks too.

Mr. Lamanna said we are talking about a two acre lot here we are not talking about a one acre lot or a  $\frac{3}{4}$  acre lot like Pilgrim Village, Tanglewood or Lake Lucerne. He said 440 sq. ft. would be large but we have people coming in looking for 1,200 and 1,400 sq. ft. accessory buildings.

Mr. Smith said he doesn't think it is in the characteristic of their neighborhood. He said the neighborhood is a two acre lot with houses on it, all the way up to the Bainbridge line there are small accessory buildings or sheds all up and down their properties and nothing of this substantial size, this is more than a shed, it is a large accessory building, it is a two car garage basically, it is 20' x 22' and if you would try to build that in Pilgrim Village you would never get that in.

Mr. Lewis said they are different neighborhoods, he has every right to put up an accessory building.

Mr. Smith said he is sure he does if he meets the requirements but he put it up with no permits at all. He said everybody can put one up if they follow the letter of the law that is fine but he doesn't think this fits into our neighborhood. He said if you take a look of the aerial photo of this there is a lot of lot coverage on this already.

Mr. Lewis replied yes.

Mr. Soryal said he would like to think that last picture he had which was a before and after showed a major improvement in the way this thing looks and also as far as what Mr. Smith is saying about his property, two houses across from him sold within the last six months and in their profile they were showing pictures of his fountain and lake.

Mr. Lewis asked Mr. Soryal if he is a builder.

Mr. Soryal said he is a remodeler, not a builder.

Mr. Lewis asked Mr. Soryal if he pulls permits to do jobs.

Mr. Soryal said yes he does. He said he did replace a shed with a shed though.

Mr. Lewis said it is a different footprint.

Mr. Soryal said it is.

Mr. Smith said that is the second shed he built on the property, not the first one.

Mr. Soryal said there was one before and yes he did screw that one up.

Mr. Smith said he is not a zoning guy but when he was reading the zoning there was nowhere that says you can build bigger if it looks better.

Mr. Lewis said this is a township so we don't have control over architectural review and typically some of those standards are managed as the last layer of authority, state, county, township and home rule and if you have a homeowner's association you have an architectural review board with standards that people need to go and get pre-approval on long before they see us.

Mr. Lamanna said to understand that a 300 sq. ft. building is permitted.

Mr. Smith said with or without a variance.

Mr. Lamanna said if he moved this thing 10' then he could build a 300 sq. ft. building.

Mr. Smith asked how big this building is, how many square feet.

Mr. Lamanna said it is 440 sq. ft.

Mr. Smith said he thinks it is a 30% increase in size.



Mr. Lewis said he could build a 300 sq. ft. building 15' tall and it wouldn't be any problem and he wouldn't even be here.

Mr. Smith said that is correct.

Mr. Lewis said if it is no closer to the side yard and the added space is going interiorly to his property there is no impact on adjacents.

Mr. Smith said so if it is in the same place it wouldn't need a variance.

Mr. Lamanna said no he is not saying it doesn't need a variance we are looking at it from the standpoint that it could have been built without getting a variance at all so now we are looking at what he has built.

Mr. Smith said if you build a 300 sq. ft. building on a non-conforming lot you don't need a variance.

Mr. Lamanna said no.

Mr. Smith said he thought you had to get a variance to get the 300 sq. ft. on a non-conforming lot, he must have misread it.

Mr. Lewis said it is all about setbacks.

Mr. Lamanna said one of the things the board considers when looking at it and assume this was all being done correctly, what affect does it have on the neighbor's property and what it looks like matters. He explained that what the building looks like may have an adverse impact on the neighborhood.

Mr. Smith said his question is if he brought a set of plans up here and asked the board for the building he has without the looks of it with just a footprint and ask you for a variance and you would have no idea what it looked like.

Mr. Lamanna said we might not grant the variance then.

Mr. Smith said you probably wouldn't have.

Mr. Lamanna said but if you gave us the whole information you may get a variance to build that structure, the board asks people what it is going to look like, we have made people change what things look like so that they are more aesthetically pleasing on the basis that if you don't make the changes we are not going to approve it because it is going to adversely affect the character of the neighborhood. He said it looks like a mini house so you can't say that it is inconsistent with all of the other houses and structures, it is built with the same kind of looks and standards and trim etc. so that is a factor the board looks at.

Mr. Smith said he understands. He said his point was the consistency with the neighborhood as far as the size of sheds or accessory buildings that were installed over the years on the properties.

Mr. Lewis asked if there is an HOA (Homeowner's Association) or an architectural review board.

Mr. Smith said no.

Mr. Lewis said so there is no neighborhood conformity that needs to be acquired and set as a standard because there is no HOA.

Mr. Lamanna said we could go survey what is there.

Mr. Smith said there is a lot there.

Mr. Lamanna said you could find that there are some larger ones there than you think are there and he is speaking from history and doing this in other places and we actually go and look and they are bigger than people think they are because they are looking at them from a distance and they think it is a little 10' x 15' shed and it turns out to be 25' x 22'.

Mr. Soryal said their street also ends in Bainbridge and starts in Auburn so they have neighbors on the same street who are in Auburn and they have a different set of rules and different properties and different sheds.

Mr. Dennis Clemmer of 17345 Wood Acre Trail testified that he lives across the street from Mr. Smith, diagonally from him, and his concern is the amount of construction that has occurred on this property without the permits and the extended lot coverage that has happened as a result of that so that is where his deepest concern is, if all of those decks and levels and pools weren't there then he questions the garage or the shed but he is not sure we are taking that into account.

Mr. Lamanna said the board is looking at the entire amount of lot coverage, it is at 12% and in the grand scheme of things, an extra 2% is not a lot, we have significant other lot coverages in the area, and some on three to five acres are pushing over their 10%.

Mr. Clemmer asked over the years have the setback rules changed because when he built an outbuilding the setback rules that he was put under when he applied for the permit up front was significantly more.

Mr. Lewis said 50' side and 90' rear.

Mr. Lamanna said we are looking at the same thing here.

Mr. Lewis said that hasn't changed.

Mr. Clemmer explained the location of his sheds.

Mr. Lamanna said understand that the 50' and 90' was off of three acre lots.

Mr. Clemmer said he didn't apply for a variance.

Mr. Lamanna said there are a lot of lots that aren't three acres but the standard is built on that so we look at each individual case and people have different situations and decide if you put it here how is it going to affect your neighbors and can you put it there versus somewhere else and a lot of times it is no problem putting it closer to the line because the neighbor's house is 50' away already.

Mr. Clemmer said Auburn Springs is behind him and they are 35' from his back line and he was surprised he had to come so far forward because they are back there but that was his call, from his standpoint, the lack of permits and the extended coverage.

Mr. Lewis said his increase in lot coverage is really pretty minor as the board deals with commercial properties that are 40%. He said it is a fairly wooded scenic lot and it is not a postage stamp and the adjacent residences are 200' away from structure to structure or more.

Mr. Lamanna said there is more space between the houses here than there are on some three acre areas.

Mr. Murphy asked Ms. Endres if the coverages on the sheet include the existing gravel areas and existing wood decks and all of the new decks etc.

Ms. Endres said the survey provided that 12.1% lot coverage.

Mr. Lewis said it is current today.

Mr. Murphy said current today but none of these were permitted structures, it is called a treehouse but looks like a deck to me, it is including a fence all the way back to the house.

Mr. Lamanna said we don't know what was there.

Mr. Murphy said we do, here is a photograph of 2000, before he bought the property and 2006 and Mr. Soryal has done a lot of that construction with the decks and treehouse, the big deck that goes out and looks over the pond.

Mr. Soryal said he rebuilt them and added the treehouse and he put the bridge in. He explained the structures to the board.

Mr. Murphy asked Mr. Soryal when he purchased the house.

Mr. Soryal said 2004 and you wouldn't want to look at the house when he bought it, it doesn't look anything like it used to.

Mr. Lewis asked Mr. Soryal if he wants to tell the board what else he did without permits.

Mr. Soryal said it is all there, there is nothing to hide now.

Mr. Lamanna said there were structures that were built in areas that were already covered.

Mr. Murphy said so it is lot coverage, it is the new replacement structures.

Mr. Lewis said and a lot of housekeeping.

Dr. Tom Scott of 8485 Summit Drive testified that this is his first hearing and if someone builds a building and then they don't pull permits on it what is the status of the committee on that, any structure.

Mr. Lewis said you mean the difference between permission and forgiveness.

Dr. Scott said if that is the case it is no wonder that people don't want to pull permits.

Mr. Lewis said it is rare that they don't.

Mr. Lamanna said there are two things that can happen to you, one is the board makes people remove them or move things to a different location so in the extreme that is the worst that can happen to you, other times people have had to add additional things to their structure, modify it, add landscaping and do other things.

Dr. Scott asked if there are fines involved.

Mr. Lamanna said there is no provision for implementing or collecting fines and he is not sure the township could do it or where we would find the authority to do it.

Ms. Endres said it would have to be taken to court but before going to court if it is something that doesn't comply with zoning court is not the first step.

Mr. Lamanna said the court would send the person for a variance first and stay the proceeding until it went before us and that was resolved. He said it would be nice if we could figure out a way that to have a 10% fine of the value of the construction for the variance fee.

Ms. Endres said there is a zoning provision to triple the fee.

Mr. Lamanna said he bets we would have a lot fewer people building things without getting zoning approval.

Mr. John O'Brien of 16860 Knolls Way testified that it is his first Bainbridge BZA meeting but he was the chairman of the Chagrin Falls BZA for a number of years so he has a lot of sympathy for the issues you are having to deal with. He said there have been occasions in Chagrin and he realizes that these are different communities where we required screening such as evergreens and asked the board if they would ever consider that.

Mr. Lamanna said the board has done that on a regular basis.

Mr. Lewis said that is a good point.

Mr. Lamanna said that is one of the ways we have dealt with people. He asked where the watercourse begins and ends with the pond.

Ms. Endres said she believes Ms. Sharp was using the mean high water mark.

Mr. Lamanna said he thinks that is appropriate.

Ms. Endres said these are a challenge.

Mr. Lamanna said ponds in general, if you are treating ponds as riparians, everybody is building structures such as docks and places to stand and fish from etc. so there are all kinds of existing and probably other construction has been put in these areas. He said you could go through and find all of the riparians and send everybody a notice to let them know they have a riparian on their property and to be aware if they want to do anything that they have to get a permit to do it because most people don't have a clue on some of these things. He said in this case you have the situation where just looking back, although some of these structures weren't there, it looks like this area was being used at least as some kind of informal patio, paved or gravel area.

Mr. Soryal said it is gravel and grass.

Mr. Lamanna said but it has been used as a recreational area already right up next to it so it was not a natural area at the time the riparian came into effect and it was already a non-naturally used area.

Ms. Endres said it is very usual to see dry hydrants constructed with ponds and she doesn't know if it is something that could be done after the fact and she doesn't know if it is something the Bainbridge Fire Department would want but it might be something worthwhile to see if a dry hydrant could be installed and the Bainbridge Fire Department would like to see one located by the subdivision and it could be a benefit to everybody in the subdivision.

Mr. Lamanna asked what the capacity is of the pond.

Mr. Soryal said it is a one-half acre pond and there is a lot of water in there and added that he is all for that.

Mr. Lamanna said they look at how fast it can be pumped out.

Mr. Soryal said there is currently no water hydrant at all on the street.

Mr. Smith said Auburn Lakes has one right next to us, they have a large pond with two hydrants there.

Ms. Endres said she is not saying to put one in, it is just a thought.

Mr. Lewis said this new building that went up is 14'-6-1/2".

Mr. Soryal said there is a section drawing that shows to the bottom of the floor, to the front, to the back.

Mr. Lewis asked if there is a cupola on it.

Mr. Soryal replied yes.

Mr. Maglietta asked if that counts.

Ms. Endres said no for the height.

Mr. Lewis said this has already been established that it is for storage and there will be no business activities out of there.

Mr. Soryal said absolutely.

Mr. Lewis asked if there is power or water.

Mr. Soryal said no.

Mr. Lewis asked if there are windows on any of the sides other than the front side.

Mr. Soryal said just front and there is a small skylight in the middle on the top and the cupola does go through so you can get some light from that but no windows, no.

Mr. Lewis asked about the doors.

Mr. Soryal said there are a set of doors for the lawn tractor to go in, a set of doors on the side and a set on the front.

Mr. Lewis asked if it is on a 4 x 4 sled base.

Mr. Soryal said correct.

Mr. Lewis said so it is not permanently anchored.

Mr. Soryal said no.

Mr. Lamanna asked if those are rocks and wire mesh along the stream.

Mr. Soryal said they are just rocks and overgrown stuff and a pipe.

Mr. Lamanna asked if it was contained in a wire mesh.

Mr. Soryal said no and the bigger rocks are not right on the edge of the water.

Mr. Lamanna said if you don't have a base for them they will sink in the mud.

Mr. DeWater said as Mr. Lewis asked you before you are a remodeler as you said.

Mr. Soryal said he is a designer and he does remodel yes, he does have a company.

Mr. DeWater asked Mr. Soryal if he does projects in other communities.

Mr. Soryal replied yes.

Mr. DeWater said and in those other communities you have never gone to their building department or before their zoning board.

Mr. Soryal said sure he has.

Mr. DeWater said it is really hard to forgive people or granting a zoning permit when people who have had the experience and do this for a living and basically snub their nose at calling our zoning inspector and doing what they are supposed to do and if you are doing it in other communities you know what is required. He said it is really hard to grant a variance for people that snub their nose at the community.

Mr. Soryal said he understands, he did a replacement of a shed and he never bothered going to say he was replacing a shed with another shed so yes he definitely takes the blame for that.

Mr. Lewis said and the other structures and the additions to the house and the catwalk, decking and the docks in the water and whatever else.

Mr. Soryal said he didn't have any additions to the house and those are freestanding movable items but yes you are absolutely correct.

Mr. Lamanna said none of that would have required anything pre riparian days, docks etc. and all of the other stuff is not a riparian issue.

Ms. Endres said a lot would not have been an issue.



Mr. Lamanna said until it reaches 10% lot coverage and without the structure or maybe a little over, it might have been 11% and even that gets a little fuzzy because of the gravel areas etc. whether it counts or not like driveways and patios. He said he thinks of this stuff in the riparian is not an issue here and a lot of it may be pre-existing or built in a pre-existing area or already being used and he thinks they can continue to use the areas along the pond he doesn't think that anybody was trying to prohibit that use and adding these elevated structures has really fundamentally changed any impact on the riparian. He said 2% lot coverage on a two acre lot he can't really get excited about, he doesn't think it would adversely affect anything and in this case he doesn't think since this is a natural feature. He said he can understand the stuff in the riparian, he doesn't think that many people understand the whole riparian concept at all especially since it was already historically used that way when he came along and he doesn't think he has expanded the impact on the riparian but we do have a rather substantial structure that got built.

Mr. Murphy said there seems to be some nice room next to that structure that they could plant some evergreens towards the neighbor. He said perhaps the neighbors would appreciate some evergreens if the structure is allowed to remain and personally he is not a big fan of forgiveness but in looking at this structure compared to the white barn that was there before.

Mr. Smith said he built the white structure with no permits and replaced it with another structure with no permits was okay.

Mr. Murphy said the white structure replaced another structure.

Mr. Smith said he built a shed and tore it down and rebuilt a new shed with no permits and moved it and tore that one down and built a bigger one.

Mr. Lamanna explained the practicality of this structure being torn down if it ended up in court. He said the board would like to take people and stick them in a stock in front of the town hall but unfortunately we can't.

Mr. Smith asked what he needs a building that substantially large for, is he going to be doing construction out of his garage, his trucks come in and out of his property on a regular basis.

Mr. Lewis said he already defined that, he said he was going to be using it for storage of his property maintenance equipment and he knows he can't run a business out of it because we clarified that also.

Mr. Lamanna said if he tries to run a business out of it then that is an easy one, those are very clear cut, you take that up to court and they are not going to put up with somebody doing commercial activity in a residential district, that is the difference, different case, different set of facts, different outcome. He said he knows it is the most important thing to you (Mr. Smith) because you are the adjacent property and we look at two or three of these things every month and he has been sitting on this board for over twenty years so he has a pretty good gauge about what would and wouldn't fly in the court level.

Mr. Smith said it is easier to ask for forgiveness than to ask for permission.

Mr. Lamanna said this is a matter of course, and there is a point where people have had to either move it or tear it down and that is the risk you run if you build without permits. He added the board will find ways to ameliorate the impact but the applicant may not like it.

Mr. Soryal said has been there for 12 year and he has invested a serious amount of money on the landscape of this property and he would like to think he has made a lot of improvements and it is upsetting to him to see neighbors not happy, he is not really sure how to make them happy but he has had plenty of neighbors who have thanked him for how nice the property looks and he has had people come to him and ask him to turn his fountain on because they like to listen to the fountain running and he has had people across the street from him tell him that their house sold because it was a nice view from their house so if somebody is upset with something and if there is something he can do, add trees etc. he is happy to do it because he plans to live in this space, he works and owns a building that is 7,000 sq. ft. two miles down the road so if he wants to store something or if he wants to build a workshop he really doesn't need a 400 sq. ft. building. He said all he did was improve the property, this one and the commercial one and his kids go to school across the street, he has no intentions on leaving and he certainly does not want neighbors upset.

Mr. Lamanna said usually people have things that look like your old shed and the neighbors are all complaining because it is an eyesore but it has been there for 40 years, or built before zoning and 15' from the property.

Mr. Maglietta asked Mr. Smith if it is an eyesore to him or hard to look at.

Mr. Smith said the back of his house is glass and when he sits in his chair to watch TV the window is right there and he looked at a wooded lot and now he looks at a large building.

Mr. Soryal said there was no digging involved.

Mr. DeWater said sometimes it is not based on just the digging.

The board discussed the planting of trees.

Mr. Lamanna asked Ms. Endres if she sees any issues with anything that is there now that would make an impact on the watershed.

Ms. Endres said no and added that is why she consulted with the experts.

Mr. Lamanna said he doesn't want to get into what predates the riparian, he thinks the board will allow what is currently existing with the understanding that in the future when you want to do anything in this area, and some of it is permitted, but you do have to get a certificate to do it and he is sure that 99.9% of the people who live near a riparian probably don't understand.

Mr. Lewis said because you are entertaining the board for a lot coverage variance you can't do anything else as far as what you are putting on the ground, structure, hard surface.

Mr. Lamanna said no expansion beyond what currently exists. He asked if anyone has anything else they want to say.

Ms. Laura Pike of 17290 Wood Acre Trail testified that there is one house between Mr. Smith and her and they have a beautiful neighborhood and she is all about family and these are two gentlemen that are very respected in the community, they own businesses and there are rules and our children are watching us and there are rules and rules are made to be followed and if we have people who are not accountable then our kids start to see there are no rules, there is a gray area so they don't need to have to follow the rules and when you don't have strong leaders and she is talking about people in the homes not following the rules and leads by example and it just goes right on up and needless to say our country is having problems because no one is following the rules and there is no responsibility so again this is a minor issue but it does start with the minor issues and that is why she came to support Mr. Smith and our new neighbors. She said we must all be careful about leading by example and following rules because otherwise the next generation will not respect the rules.

Mr. Lamanna said that the board does not condemn people going ahead and building things without getting the proper permits and we certainly in our decision make every effort to assure that as much compliance that can be obtained is obtained and also to make sure the applicant understands the requirements of the future with respect to adding anything additional with the lot coverage variance. He said part of the decision will be the applicant will be on notice that any future expansion of any of the lot coverage or any future activities in the riparian area will require getting appropriate zoning approval and if somebody comes back for a second bite of the apple, like Snow White, they will find it is not going to be very pleasant.

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

Motion BZA 2016-25 – 17360 Wood Acre Trail

Mr. Lamanna moved to grant the applicant the following variances with respect to an existing 22' x 20' accessory structure and existing development in the riparian area including patios, treehouses, elevated decks and gravel area.

1. With respect to the accessory structure the board grants a variance from the 300 sq. ft. maximum square footage to the actual 440 sq. ft.
2. A variance from the minimum side yard setback of 50' to 39.3'.
3. A variance from the minimum rear yard setback of 90' to 81.9'.
4. A variance with respect to the maximum lot coverage of 10% to 12.1% for a variance of 2.1%. That will cover all of the existing structures and other lot coverage areas on the property. The board will not be considering the pond as part of the lot coverage.
5. A variance on the maximum height of 4" for the accessory structure on the basis that this is just a de minimis amount and has to do with vagaries of the leveling of the building and land since it is not a permanent foundation.

With the following conditions:

1. In order to ameliorate the impact on neighboring properties and be more consistent with the character of the neighborhood the applicant will place at least five 6' evergreen trees to be staggered to create a barrier and screening on the side of the structure that faces the property line on the 39.3' variance that has been granted. This will reduce the visual impact to the neighbors on that side.
2. With respect to the installation of the evergreen trees the applicant will have sixty days to install the evergreens and 6' in height is only a minimum, the applicant can install taller ones if he would like.
3. With respect to additional conditions the applicant is also required to obtain appropriate permits from the county building department and the county soil and water conservation department that should have been obtained for this building and shall also do that within the same 60 day period.

Based on the following findings of fact:

1. The size of the structure is not unusually large for a two acre lot.
2. The total lot coverage is only a variance of 2.1% over the permitted amount and this is not going to adversely affect the character of the area and it is also only a two acre lot so some higher lot coverage would be expected as compared to a normal size lot.

Motion BZA 2016-25 – 17360 Wood Acre Trail - Continued

3. With respect to the location these are small variances and the other adjacent property owner is far from the property line and there are also some drainage issues in this area which would make moving the structure farther away adjacent to drainage areas going into the riparian.
4. This shed will only be used for storage of yard implements and toys and things like that. There will be no business activity or other like activities conducted from the structure, it will be just used purely as storage.
5. The board also notes here that the applicant is put on formal notice and advised that any additional construction on this property would require a variance and limitations.
6. Because there is a large riparian through his property any activities undertaken within the riparian right-of-way as provided in the zoning ordinance will also require a zoning certificate and being on such notice any future requests for variances after the fact will be carefully scrutinized.

Mr. DeWater seconded the motion.

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

Mr. Maglietta left the meeting at 9:10 P.M. and Mr. Gutoskey joined the meeting.

Application 2016-27 by Rick Dinallo for property at 7350 Brighton Park Court

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

Mr. Rick Dinallo was present to represent this application.

Mr. Dinallo testified that he has a small revision that was made to the site plan to do a few things. He said the original request for a variance was in the background of the shaded area so the dotted line was the original request. He said this was also at the request of the lot owner who he will be building for to move the home a little bit more towards the left property line and there seems to be a question on the riparian setback which we know a lot about tonight is outlined on the plat which is the same riparian setback that was approved by this board and by the Army Corps of Engineers and it shows the 25' buffer coming out into what may be considered the start of the intermittent stream, he calls it more of a swale than a stream.

Mr. Dinallo continued by saying they are bringing the lot and the home forward in order to move the home away from the riparian setback so what they did is they took a straight line across the two points on the left property line and the right property line and the original was to bring the garage up to that point and they have now moved it maybe 10' or 12' further back and to the lot off of that straight line across. He said part of the reason for the variance is the right property line being short and long and the left property line being so long they felt that the original setback line of 104' it is tough to say which line you are going to use, the right property line, the middle or the end of the left property line.

Mr. Murphy asked if 104' is the radius.

Mr. Dinallo said correct and moving it to the left property line also allows a little longer driveway for the owner from where they had it set originally. He said there is not a home built on subplot 8 as of yet and their building line is shown going toward subplot 8 so that is about where that home would sit and subplot 10 is sitting 250' back off the road so there is no impact on the existing home on subplot 10 and there is no impact on the vacant lot of subplot 8.

Mr. Gutoskey said it looks like from sliding it over it also straightens the driveway out for you from what it was originally.

Mr. Dinallo replied yes.

Since there was no further testimony this application was concluded.

#### Motion BZA 2016-27 – 7350 Brighton Park Court

Mr. Lamanna moved to grant the applicant the requested variance with respect to the minimum front yard setback from 104' as required in the previous hearing to 77' for this property.

Based on the following findings of fact:

1. The reason for granting this variance is there is a practical difficulty because this property has a large riparian in the rear of the property and in order to fit the house on the property between the slanting sidelines off the culdesac it is appropriate to move this forward.
2. Because of the other odd shape lots around this culdesac the positioning of the one house that is built there will not adversely affect the character of the neighborhood nor will it affect either of the adjacent property owners.

Mr. Gutoskey seconded the motion.

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

Application 2016-28 by Dr. Thomas Scott for property at 8485 Summit Drive

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

Dr. Thomas Scott was present to represent this property.

Dr. Scott testified that they tore down the deck that was there and they are just going to replace it with a three-season porch (back porch) and they said that is illegal and he said we are just replacing the deck that he tore down which was an eyesore and they said that was illegal so they said we have to come and pay \$150.00 to talk to you fine gentlemen and ladies and so that is what we are doing.

Mr. Lamanna asked if this is a single story all season room.

Dr. Scott said it is like a porch, it will be the same as the deck except it will have a top on it and screens and it will be nicer than the deck and the deck was illegal.

Mr. Murphy said so we would assume that you talked to the Lake Lucerne Architectural Review Board and it has been approved.

Dr. Scott said yes

Mr. Murphy said it seems like it is a good thing.

Dr. Scott said it will be much better than the structure that was there.

Mr. Murphy asked how many houses this is off Rt. 306.

Dr. Scott said it is the third one in, you can't see it from the street including the back.

Mr. Murphy asked if we have a copy of the ARB approval.

Dr. Scott said he can get that.

Mr. Murphy said we would like that in our file because that is sort of the barometer of what happens in Lake Lucerne.

Mr. Lamanna said understand when you tell us you have been granted approval we would like to see it in writing but if there is not such approval, you are under oath and if it is not true you could be prosecuted and it would be grounds for the board to vacate its decision.

Dr. Scott said it is true.

Mr. Murphy said he has no problem with this.

Mr. Gutoskey said he is just replacing the porch.

Mr. Lamanna asked what the actual lot coverage is.

Mr. Lewis said there were two calculations on this.

Ms. Endres said her lot coverage calculation was from using the measurement tool on REALink and she came up with 2,300 however there may be structures she can't see on REALink on the property so she is not sure how Dr. Scott came up with his calculations.

Dr. Scott said all they have on there is a garage.

Ms. Endres said the total square feet of lot coverage is 4,100 sq. ft. and she came up with 3,560.

Dr. Scott said he will take the lower one.

Mr. Lamanna said you don't have anything else other than an attached garage, no other structures.

Dr. Scott said no.

Mr. Lamanna said she has the garage, driveway, the new porch and the house.

Dr. Scott said that is it and added that the porch isn't there yet.

Ms. Endres said he counted his driveway all the way up the road and she didn't, she counted it up to where the lot line started.

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



Motion BZA 2016-28 – 8485 Summit Drive

Mr. Lamanna moved to grant the applicant the following variance to the lot coverage for the purposes of putting on a 300 sq. ft. area covered porch which is being placed where there previously existed a deck which has been removed.

1. A variance to the maximum lot coverage of 10% to 24%.

Based on the following findings of fact:

1. A practical difficulty exists because of the small lot size in Lake Lucerne.
2. The amount of lot coverage is actually being increased from what has previously been there and the structure being added is of small size and it is reasonable given the size of the existing house.
3. It is consistent with other properties in the neighborhood and the addition of this porch would not adversely affect the character of the neighborhood.
4. The applicant has also represented to us that the ARB has approved this and he will provide the board for its file a copy of that approval letter.

Mr. Lewis seconded the motion.

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

Application 2016-29 by Ryan Sanders (Premier Custom Builders) for property at 19033 Haskins Road

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

Mr. Ryan Sanders was present to represent this application.

Mr. Gutoskey asked if this addition in the front is not getting any closer to the right-of-way.

Mr. Sanders testified by saying correct.

Mr. Lewis asked Mr. Sanders if he is the builder.

Mr. Sanders replied yes.

Mr. Lewis asked if the property owner is here.

Mr. Sanders said he is not here. He said the existing house on the property is about 108 years old and they are looking to do a major renovation to bring the house up to date.

Mr. Gutoskey said he doesn't think there is a lot coverage issue on this.

Mr. Sanders replied no. He said the proposed addition is for a new master bedroom and it is going to extend off of the first floor and it is keeping with the existing style of the home. He said there is a board and batten exterior on the home now so he is just going to continue that around to match. He said as far as the exterior elevation goes this home almost faces towards the driveway and it is almost the side of the home that faces towards the road and this is actually the portion of the home that faces the road (he referred to the site plan) and this is the addition here so this dormer is all part of that addition too. He said it faces the driveway and the driveway pulls up and around and into the house. He said they did actually have a formal site plan done.

Mr. Lamanna said they have 600' of frontage so it is not really going to be noticeable.

Mr. Sanders said it will not be noticeable to the neighbors either.

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

#### Motion BZA 2016-29 – 19033 Haskins Road

Mr. Lamanna moved to grant the applicant a variance to the minimum front yard requirement to 39' and also approximately 50' plus or minus from the centerline to 39'.

Based on the following findings of fact:

1. This distance actually is the current front line of this house so it is a pre-existing non-conforming setback and this addition will be along that same line.
2. Additional this house has approximately 600' of right-of-way so this won't even be noticeable and will have no adverse impact on any neighbor nor will it change the character of the neighborhood or otherwise adversely affect this current location.

Mr. Gutoskey seconded the motion.

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

Application 2016-26 by Federated Church by Sarah Northcraft Spann, Senior Director of Operations for property at 16349 Chillicothe Road (Family Life Center)

The applicant is requesting a renewal and modification of a previously granted conditional use permit for the purpose of a church community center with short term lease for temporary use as a public school for the Chagrin Falls Exempted Village School District.

Ms. Sarah Northcraft Spann, Senior Director of Operations for the Federated Church; Mr. Mike Carter, Architect for Chagrin Falls Schools and Mr. Chris Woofter, Director of Operations and Strategic Initiatives for Chagrin Falls Schools were present to represent this application.

Mr. Lamanna stated that the board is doing a general review of the conditional use permit because these are supposed to be renewed every five years and it has been more than five years since the last renewal but we are getting better at giving people notice that they have to come back and talk to us again so to make sure that everything they are supposed to be doing is being done and conditions are being met and we are trying to get a system in place to notify the property owners when it is time to re-up their conditional use permit. He said more importantly there is also a modification/expansion of this use to allow for the Chagrin Falls Schools to use the property to locate modular classrooms for a period of approximately two years to serve students in grades four – six while they are renovating their school on Philomethian Street. He said the buildings themselves don't require any variances as to zoning setbacks and there will still be ample coverage.

Ms. Sarah Northcraft Spann testified that she is the Director of Operations for the Federated Church and she has only been there for two years so it wasn't until she spoke with Ms. Endres and learned that they were due for renewal and she thinks the last time was 2004 that the church was reviewed. She said just for the renewal piece she thinks the structure hasn't changed, it has been well maintained and she believes they have been a good neighbor and harmonious with the requirements over the last zoning certificate that was issued and this is separate from the school to request their renewal.

Mr. Lamanna asked if there are any open issues.

Ms. Karen Endres, Zoning Inspector testified that she is not aware of any issues.

Mr. Lamanna said everything is in compliance.

Mr. Mike Carter, Architect testified that the Chagrin Falls Schools contacted Federated who happens to be a neighbor of the Philomethian Street school with regards to the property at the Family Life Center and the possibility of utilizing it for a limited period of time for a temporary elementary school. He said on the screen we have the existing conditions, the building is set well back from Rt. 306, we have very large setbacks on both sides and what we are proposing is a school for a maximum of 480 students with a staff count of 52 and a good number of those are part-time staff. He said bus traffic coming into the site would be a maximum of 12 buses in the morning and fewer in the afternoon, probably eight buses in the afternoon and as they said before the duration of this would be two school years, the district plans to go on the ballot in May, they can't do anything unless we pass the bond issue but if that passes then they would move fairly quickly into placement of the modular structures to allow for classes to begin in August or September, around Labor Day. He said they looked at the site from an engineering standpoint and currently there are 151 parking spaces on the site, the zoning code would require 36 for this use and as Ms. Endres noted a public school is a permitted use in this district so we took a look at the site.

Mr. Murphy asked if the zoning code would require 36 additional parking spaces.

Mr. Carter said no 36 total.

Mr. Murphy said there are 52 employees and you would only need 36 parking spaces.

Mr. Carter said according to the code you need two spaces per classroom for an elementary school but nonetheless we have well over that amount of parking spaces with 151 on the site.

Mr. Gutoskey said this shows 20 modular classrooms so it would be 40.

Mr. Carter said that is correct. He said the site was originally designed with a future expansion pad out in this area as the access road moves around (he referred to a site plan) He said this pad was designed to expand the center at some point so all of the utilities also loop around this so it is flat, it is pretty much ready for the placement of the modules so there will be a minimum amount of disturbance in putting them in. He said the sewer comes out of the building here (he referred to a site plan) and runs around and out to the street and they have done some calculations on that sewer and we would be with the full capacity of this and we would be using about 10% of the capacity of that outgoing sewer, just the line that goes out to the street and have much capacity than that the street. He said the incoming electrical was also designed for the expansion so it is pretty much ready to accept this addition.

Mr. Lamanna referred to the sewer and asked if they talked to the sewer district about this.

Mr. Carter said no they had their engineers do calculations on the available capacity.

Mr. Lamanna said you may have to buy more capacity from what they purchased.

Mr. Carter said they understand that but what we are saying is the line that is going out is a big enough pipe and the pipe at the street.

Mr. Lamanna said hopefully you designed it with the expansion in mind to put a big enough pipe in.

Mr. Carter said that is also a significant amount of stack queuing space in the road that comes back. He referred to the next slide and said the furthest building from the existing building will still be 700' from Rt. 306 and are within the setbacks of the existing buildings on the side so we have about 250' to the line here and about 150' here. He said the church did install significant landscape mounds on both sides that abut the residential properties with landscaping on them so those already exist so it is pretty well buffered from the residential. He said the usage of the site although it would be daily, weekdays, instead of Sundays doesn't really exceed the maximum that was expected of this site when it was first built, the church has used it significantly less over recent years than it was used before. He referred to the next slide, it is a blowup of the site and it would be two sets of modular sitting here and here and they need to be 30' apart and 30' from the existing building for fire separation and we would be using the Family Life Center as well as these classroom buildings. He said there is a gymnasium in there, a full service kitchen and some classrooms that they would be utilizing. He referred to the next slide and said basically this is what they would look like, the existing building is vertical wood and they would be trying to get that kind of a look and match the color that is there so that from the street you wouldn't see too much difference in what is there and the agreement that the school district would have with the church is to return it to its existing condition when they leave. He said the quote that they got from the modular company includes removal and restoration.

Mr. Lamanna asked if they are all self-contained, they have their own sanitary facilities in there.

Mr. Carter said the sanitary facilities will be tied in. He said the sewer line actually goes out to the street almost on the centerline, comes around and then turns so the connection point is actually pretty convenient and the restrooms are in the center of the plan.

Mr. Lamanna asked if there will be evening use of this as well.

Mr. Carter said very occasional.

Mr. Chris Woofter testified that for example they will have open house night probably twice a year and from time to time they may have a strings performance or a choir performance during the holiday time but not that often, it is grades 4 – 6 so it is not like high school and he is speaking as a former principal so he knows the activities relatively well at the school.

Mr. Lamanna asked if there are any extra-curricular activities after the normal school day.

Mr. Woofter said yes sometimes they will and some are on-site and some are off-site, they have a chess club, a reading club, a biking club off-site, and they may in the spring have sports and they use the gym for that, 25 students.

Mr. Lamanna asked if they expect any outdoor use by the students.

Mr. Carter said there is a playground on the site that would be expanded a bit with a little bit more equipment so there would be outdoor play and recess.

Mr. Lamanna said that would be during a normal school day.

Mr. Carter said yes.

Mr. Lewis asked where the playground is located on the site plan.

Mr. Carter referred to the site plan and said it is right up in here.

Mr. Lewis asked if it is at the rear of the property.

Mr. Carter said yes.

Mr. Woofter said they would have a grade level at a time outside, 150 students at once for recess.

Mr. DeWater said it was stated that you would have 12 buses in the morning and maybe eight in the afternoon and asked how many parents bring their kids in vehicles.

Mr. Woofter said right now they have about 20 – 25 on any given day but right now at the intermediate school a lot of students walk.

Mr. DeWater said that is right on Rt. 306, one of the busiest routes through the township.

Mr. Woofter said he knows from the bus study from the transportation director they would have 12 buses in the morning and in the afternoon they would have eight and the times of those would arrive between 8:05 AM and 8:20 AM and buses should be off the property by approximately 8:22 AM and the afternoon pick-up would occur between 3:10 P.M. and 3:30 P.M. and buses should be off the property by 3:30 P.M.

Mr. Murphy asked if that is current buses at Chagrin at Philomethian.

Mr. Woofter said no this is a study that was done.

Mr. Murphy said so the entire 4<sup>th</sup>, 5<sup>th</sup> and 6<sup>th</sup> are on 12 buses.

Mr. Woofter said no, we always make sure there is a seat on the bus for every student whether they choose to walk or not because there are some days they may not so there will be capacity. He said this is typical of our busing right now so there will be one or two buses less or more than what we currently do.

Mr. DeWater asked if ODOT has been contacted.

Mr. Lamanna asked if there is going to be a school zone there.

Mr. Woofter said he doesn't believe they have done that.

Mr. Lamanna asked if they expect to have a school zone on Rt. 306, 20 miles per hour. He said we do expect to ask to have them establish a school zone on Rt. 306.

Mr. Woofter said he would think that would be required.

Mr. Gutoskey said the second part of the ODOT, normally when you bring a new driveway into Rt. 306 they require you to do a traffic study so he assumes there was a traffic study done for the use when this was originally proposed but with the school traffic coming in in the morning and leaving in the afternoon it is going to be kind of different than what ODOT originally approved so he doesn't know if you need to go to ODOT to update your permit. He said he knows when the township moved its driveway for the town hall we had get a permit from ODOT. He said a traffic study will probably have to be done first.

Mr. Lewis said he would want one, you will have 12 buses coming out of there with over 400 children on them on a state highway and it is happening during rush hour traffic and there are no lights, there is no designated school zone, you are not going to be able to put a flagger out there and stop traffic to let school buses out and then we have got carloads of parents coming as well.

Mr. Gutoskey said that is a stretch of Rt. 306 that is a higher speed.

Mr. Lamanna said you may want to investigate with ODOT if they will put a temporary light up there.

Mr. Murphy asked why they are not putting it at Gurney School or putting it next to the Armory, it is a giant property in Chagrin Falls, just a mile from the existing school and he is sure there are sewers, water, driveways, it is in Chagrin Falls, let's just back up a minute as if this is a done deal. He asked why this is not staying in Chagrin Falls, let's just ask the question that has got to be asked tonight, if we may.

Mr. Lewis said and there is parking lot room on the main campus also, there is for the balloons.

Mr. Carter said he is not sure what Mr. Murphy is asking.

Mr. Murphy said why are you coming to Bainbridge instead of staying in Chagrin, Chagrin has appropriate and acceptable properties, it would seem right off the bat and he doesn't see it being beyond asking that question.

Mr. Carter said they have done investigations of doing it at Gurney, they did some other investigations of other sites around Chagrin Falls, the Armory was not one of those sites. He said the reason that this was attractive to the school district is that it has facilities, it has a full kitchen, a gym, it has some classrooms, it has more than adequate parking, the development cost of it would be significantly less to the district than going to one of those other sites because we would have to put additional modulars, more than we have now, we would have to come up with a gymnasium of some sort and a dining facility.

Mr. DeWater asked if Gurney doesn't have a gymnasium or a kitchen.

Mr. Carter said yes for the capacity that is there.

Mr. Lewis said the Armory has a ton of room, enough to have the chili cook off and they have ample restrooms.

Mr. Carter said we would be asking them to give it up for two years.

Mr. Murphy said you are asking the church to give it up, what happens to the Meals on Wheels in the kitchen every other day, they use the kitchen.

Ms. Sarah Northcraft Spann said they would go to Bell Street, they started there actually.

Mr. Lewis asked if you are going to kick them out.

Ms. Northcraft Spann said they are asking them to move to Bell Street where we have a kitchen and facilities and that is actually where they started originally and added that is the main church building.



Mr. Murphy said and the walking in the gymnasium and the people who are using it for activities.

Ms. Northcraft Spann said they have a fellowship hall at Bell Street so they will have to do extra laps.

Mr. Lewis said so the people from Bainbridge, the local residents who have enjoyed this local facility on a day-to-day basis are all going to be relocated to your other facility in Chagrin Falls.

Ms. Northcraft Spann said she is not sure about the walkers.

Mr. Lewis said any of the locals who are using the current facility are getting clocked. He said Chagrin Falls Schools problem is becoming Bainbridge Township's problem.

Mr. Lamanna asked that basically the time the school is using this facility the church isn't going to be using it at all.

Ms. Northcraft Spann said they have to work out every detail but probably minus a couple of services, Blossom weekend, we do an Easter sunrise service, a couple of those yes but.

Mr. Lamanna asked if they will be using it on weekends, almost that they would be using it full-time and the church would be using a few off hours when they aren't using it.

Ms. Northcraft Spann said basically.

Mr. Lamanna said so there really will not be any competing activity there.

Ms. Northcraft Spann said correct, we looked at that and said that the Meals on Wheels can be accommodated at the Bell Street location.

Mr. Gutoskey asked Ms. Endres if she sent this past the fire or police to take a look at it.

Ms. Endres said she sent it to them but got no response but she did get a response from the service department that there was something that happened a number of years ago regarding water and sewer access, she is not sure what that issue was exactly, it regarded sewer and water access in regards to the nursing home or retirement center in S. Russell.

Mr. Lamanna asked as far as the school goes what would you typically expect as far as calls for emergency services, EMTs etc.

Mr. Woofter said rarely, if someone got seriously injured, it could happen two or three times a year so not that often, it is an elementary school and obviously there could be a security event but that could happen with any school but we typically don't have services for that.

Mr. Lewis said the next question is related to lock-down, security, nurse full-time on staff, playground security, officer on-duty all day just all these related things, you are in multiple buildings that kids actually have to leave the building they are in to go into another building to eat lunch, they have to go outdoors.

Mr. Woofter asked which question did you want me to answer.

Mr. Lewis said he is still back to Mr. Murphy's comment that he thinks Chagrin Falls School District has a lot of work to do with reconsidering their own resources in their own town first but there are a lot of questions at bay here so.

Mr. Woofter said all he can say is we are speaking from the fact that we found this to be a site that made sense, it was close to their school district, very close in fact many of the people go to Chagrin Schools.

Mr. Lewis said it is in another town and in another county. He asked if the parents in Chagrin Falls know that 400 and some odd kids are going to get bused out of the district and out of their own town.

Mr. Woofter said they have had a couple of board meetings where they have presented it.

Mr. Carter said it was on the front page of the Chagrin Valley Times.

Mr. Lewis said that is what he was asking, that's good so you are making an effort to apprise your taxpayers that their kids are going to get bused to another town.

Mr. Woofter said yes, this is a potential and we assume we are doing this.

Mr. Lewis said you talked about returning it to its existing condition and he is probably putting the cart before the horse on this because he is still not convinced that it needs to be located in Bainbridge but would the contract have something nailed down on when it would return to its existing condition.

Mr. Carter said at this point no, this is conceptual in coming to the township to say this is what we want to do and is it feasible to do this.

Mr. Lamanna asked how comfortable they are with the actual renovations they are doing, two years is a pretty good time.

Mr. Carter said they are not performing any renovation within the existing building.

Mr. Lamanna said people are here because you are renovating the existing school and how comfortable are you that it will actually be done in two years.

Mr. Carter said he thinks they are pretty comfortable with the two year time frame assuming we pass in May.

Mr. Lamanna said obviously you can't get started until you get funding.

Mr. Carter said they are working with a construction manager who has done a lot of schools and they are pretty comfortable with that.

Mr. Lamanna said it is a pretty long time.

Mr. DeWater asked why they didn't approach Orange School District because Orange School District has a lot of vacant land on Chagrin Boulevard, open parking lots and why can't you work directly with another school district. He said Orange School District has a very large campus and they have a lot of pavement area and they actually have one school that is totally empty that just have the maintenance offices, why couldn't you approach them.

Mr. Carter said one of the attractive things about this site is that it does abut the district.

Mr. DeWater said Orange abuts the district and in mileage and distance the Orange campus is probably closer than the Federated Church campus up here from Philomethian.

Mr. Carter said the school district actually abuts this site and it makes the bus run shorter, not longer to go to this site, it would make it significantly longer to go to Orange.

Mr. DeWater said he doesn't buy that and he is very familiar with Chagrin Valley and the Orange School District and where Philomethian is located you can go right up Washington and over to Chagrin Boulevard, Orange School District is right on Chagrin Boulevard, you are not cutting up Bell back to Rt. 306 or Washington to Rt. 306 or cutting through Wembley, residential neighborhoods.

Mr. Gutoskey said the problem is for Bainbridge Township there is nothing in it for us, just negative.

Mr. Mike Uth of 8205 Woodberry Boulevard testified that he lives in the Woods of Wembley Subdivision and a number of us are here tonight and we are very concerned and he thinks this proposal presents issues of safety, quality of life, financial issues for our township in general and in particular for our neighborhood. He said we already have a problem with people using Majestic Oaks and Woodberry as a cut through to get from Washington to Rt. 306 and vice versa and this is just going to take that cut through problem and make it even worse and he can't even imagine what it is going to be like to try to turn left to go north on Rt. 306 at Woodberry in the morning when everybody is dropping their kids off and buses are there, this is going to be a nightmare. He said he also points out that we had a funeral home open on Rt. 306 on one side of this location and on the other side we will soon have an active assisted living facility and all those things mean more traffic and he wonders what EMS is going to do when they have to go to the assisted living facility which we all know that happens a lot and if they have to get in and out of there quickly when somebody's whose life is at stake when all of the buses and all of the parents are there with their kids on a two-lane road, this could be a serious safety issue and frankly he agrees with the observations that the board members have already made in terms of he thinks Chagrin is basically taking their financial problems and making them ours and assuming an alternative they perceive as convenient but it is really inconvenient for us. He said obviously there are going to be ramifications in terms of impact on more traffic, more accidents means more police calls, means more EMS, means more wear and tear on the roads, you name it. He said traffic has gotten, as you all know, has increased over the years on Rt. 306, rush hour in the morning, it is busy, it is busy now and at some point have got to say no and he thinks this is just going to push it over the edge and he is very, very concerned about this and it will impact our property values. He said when you get more people coming through our neighborhood nobody wants to buy a house in Wembley if they have got a freeway running through the middle of it and he is gratified to hear all of the things the board has already said because there is nothing in this for us. He said honestly he doesn't think Chagrin is being a good neighbor to take their problem and make it ours.

Mr. Ken Polanka of 8400 Wembley Court testified that he also lives in the Woods of Wembley and he has a couple of questions and why are there 12 buses coming in the morning and only eight in the afternoon, won't the same number of kids have to leave that came.

Mr. Woofter said in the morning we share bus routes with Gurney and in the afternoon not as much so it is just the way we route buses.

Mr. Polanka asked how many students are on a bus.

Mr. Woofter said it depends on the route.

Mr. Polanka said it was said one seat per student.

Mr. Woofter said there is a spot for each student.

Mr. Polanka asked how many seats are on a school bus.

Mr. Woofter said he doesn't know either.

Mr. Gutoskey said 66 to 72.

Mr. Woofter said they don't fill all of the buses up.

Mr. Polanka said if there are only 20 – 40 seats on a bus then you don't have enough buses to transport the kids.

Mr. Woofter said they do have enough to transport the kids and they usually have capacity because they don't fill up whole buses.

Mr. Polanka said why is the cost, in a letter that he saw, \$300,000.00 less than at the middle school to provide these mobile classrooms.

Mr. Carter said the plan at the middle school required several things, it required additional utility runs because there is not enough electric capacity to run those at the middle school because they would have to use the existing parking lot to place the units to get them within a reasonable distance of the middle school then they would have to provide additional parking. He said that Mr. Lewis mentioned that everybody parks there for the balloons but if you are in there on a regular school day that parking lot is pretty full so if we lose parking spaces we are going to have make them up somewhere so it will eliminate parking to bring the utilities in and that is one of the things that made this proposal a dream.

Mr. Polanka asked if the Federated Church is getting a fee for renting their property.

Mr. Carter said absolutely.

Mr. Polanka said and that is included in the price that it is \$300,000.00 less because you are going to put the modular units in the parking lot.

Mr. Carter said the savings include the rent.

Mr. Polanka said that Mr. Uth brought up the additional police and he has talked to some people about a traffic light and that has to be done by the state, if there was ever going to be a traffic light there. He said he was also in the school business at one time as a sub-contractor and Philomethian was remodeled many years ago, he can't remember how many years, probably in the neighborhood of 25 and asked what is the updating that is going to be done at Philomethian.

Mr. Carter said we can talk about it but he doesn't know how much time it is going to take.

Mr. Polanka said the reason he is asking this question is a couple of years ago we have done a couple of schools in Garfield Heights that were remodeled completely, two elementary schools and one was probably the high school at one time and these were remodeled with part of the students still in the building and part of them relocated.

Mr. Carter said remodeling is probably an incorrect term for this project. He said if you are familiar at all with the site it is a 1914 original building which will be retained, there is a gymnasium and auditorium that will be retained and then the majority of the classrooms are contained in an L-shape around the gym and auditorium and that area has significant issues with age, infrastructure and handicap accessibility and it is going to be torn out and that is going to be replaced with new classrooms.

Mr. Polanka asked if they are tearing down the building.

Mr. Carter said a portion of the building.

Mr. Polanka said if you start in May so it is a year and two summers.

Mr. Carter said it would take two school years.

Mr. Lamanna said we don't really have time to start re-engineering the plans.

Mr. Polanka said he is just asking a question.

Mr. John O'Brien of 16860 Knolls Way testified that he lives in Chagrin Knolls which happens to be in the Chagrin School system, he is in Bainbridge but pays taxes to the Chagrin Falls School District. He said he previously co-chaired a levy for Chagrin Falls schools and he has two granddaughters in Philomethian and he is a little worried about that facility and he thinks the school board has done everything they can to make sure. He said he lives just one mile from Rt. 306 and the traffic is horrible, he recognizes that and he deals with it too but he is 75 years old so he doesn't have to go in rush hour, he can pick his spots so he has the luxury of that and he is getting close to helping out on this levy as well and there are alternatives and maybe it should in Chagrin Falls so he was interested and it is helpful to him to understand the concerns. He said he would take exception with saying that Chagrin is trying to transfer its problems to Bainbridge, he thinks that is wrong, he thinks what Chagrin is doing is Federated could use the revenue, they are receptive and the school board has taken the position that that is a pretty nice site and maybe they haven't heard from all of you the issues you perceive as being troublesome so he thinks we take that back to the drawing board, he thinks it is helpful but again he will take exception to the characterization that Chagrin is trying to transfer its problems to Bainbridge, he doesn't think that is true.

Mr. Lamanna asked if the school district or anybody has considered whether if this went through if they would make a contribution to the township in lieu of taxes to offset services that might be required from the township and added that other people did this.

Mr. O'Brien said sure S. Franklin Circle.

Mr. Lamanna said where otherwise tax exempt.

Mr. Woofter said he is not in the position to answer that.

Mr. Lamanna said it is just something for you to take back as a consideration because it would certainly ameliorate that issue.

Mr. Woofter said sure, thank you. He said in regards to services and officers they certainly would be willing to employ a police officer for traffic in the mornings on Rt. 306.

Mr. Lewis said they are not going to stop traffic on Rt. 306, that isn't happening and he likes Mr. Lamanna's comment, it is very good, money is interesting but he is very concerned about a severe harsh impact on our community trying to assist or alleviate another community and their issue, it is not our problem.

Mr. Ekram Elgazzar of 8265 Wembley Court testified that this is right next to a nursing home that requires peace and quiet and it could be noisy with 480 some students and at the same time the safety of Rt. 306, some of the people drive up to 50 quite a lot and this is the safety of the students and the noise, whether there is a sporting event or some evening event he thinks it might be much better to switch to another school district, maybe Orange or another facility and with a nursing facility with sick people you need some of privacy.

Mr. Mike Smith of 8345 Wembley Court testified that he just wanted to add just a little bit on what Mr. Lamanna said and another thing to consider is the township also granted the Wembley Club some larger facilities that are in the works, it is obviously not there yet, and as expected their goal is to bring in more clientele as well so then in addition you have another factor of traffic that we know we are going to have to deal in the Woods of Wembley and all of this potential new traffic will just add to that issue. He said he doesn't know if you have been up and down Woodberry and Majestic Oaks and there are a lot of For Sale signs on the houses so we are very concerned with property values because people are moving out of the community so with all due respect he respectfully disagrees with your statements, it will bring a problem to Bainbridge, it is not because it is Chagrin schools it is because when we built here with the existing structures in place, sure things change, we understand that but significant changes like this disrupts our daily lives and for two years that is not an insignificant amount of time so he appreciates your time.

Mr. Lewis asked if the playground activity is at the rear of the property.

Mr. Carter said the property goes way back.

Mr. Lewis said he thinks it is surrounded by Lake in the Woods development, both sides and behind it.

Mr. Carter said Lake in the Woods is to the south.

Mr. Lewis asked what is behind it.

Ms. Endres said Lake in the Woods abuts the rear lot line.

Mr. Lewis asked about Kensington so the backyard is surrounded by other backyards and he remembers there were issues with the youths using other people's property.

Mr. Carter said the back end has several hundred feet of wooded property between and then the properties that abut Lake in the Woods and Kensington Green, the church installed 13' high mounds with evergreens on them buffering that.

Mr. Murphy said one of things when the Federated Church came and asked for the conditional use items and there has been a long history between the church and Bainbridge Township and the way things have gone is that some of the original things the township and neighbors had problems with was soccer and the outdoor fields and the church said part of their outreach program is being a good neighbor also was athletics and as he understands there are volleyball and basketball that happens in the Federated Life building, there are a lot of different athletic things that are going on now there so what happens to those in the next two years.

Ms. Northcraft Spann said most of that is after school and they haven't gotten to the point yet with the school district to work out the logistics with any of that. She said a couple of them are just open gyms where people come, again they haven't gotten to the details of what that might look like.

Mr. Woofter said they would be very amiable to working through an agreement with offering use to the church when they needed it.

Mr. Lamanna said the one major serious thing here is the traffic issue and he thinks given the situation he thinks the board would need a formal traffic study done under the normal guidelines or performing those studies before the board can properly assess that issue and he thinks you would also need to contact the ODOT district people and sit down with them and discuss what it would mean and what their thoughts would be as far as doing this and how they would see dealing with it since it is their decision on what happens on that highway as far as traffic control and that sort of thing so it would be on a semi-permanent basis and that would be the only way we would know what the impact would be in the area, we can all speculate but we have to deal in facts so that would be something that we would need to have to be able to consider.

Ms. Mary Ellen Knific of 8460 Woodberry Boulevard testified that she lives right there, she is two houses down and she sees accidents all of the time and she is really concerned too about buses but they probably wouldn't come through their neighbor, we have our own buses that come through the neighborhood.



Mr. Lamanna said buses can be controlled through routes.

Ms. Knific said she is certain that those people are not going to go all the way down E. Washington and wait by the light and come back down, they are going to cut right through our development and we can't stop that, we can't shut our neighborhood off so who would control that.

Mr. Lamanna said they are public roads, you can't control that.

Ms. Knific said it is a neighborhood.

Mr. Lamanna said we understand that.

Mr. Lewis said we just went through that with the construction on Rt. 306 where people were going through Bainbrook where it is 25 mph and there were kids on the street and you had everything from hot-rodders to semi-trucks going through there fast.

Mr. Knific said the children may be walking and shame on the parents that allow them to walk on Rt. 306.

Mr. Lamanna said from S. Russell they could cut through the back but he doesn't think there will be a lot of people walking to the school.

Mr. Lewis said no.

Mr. Gutoskey asked if they have talked to Water Resources in Geauga County because based on the numbers because Federated purchase minimal on what they were going to do and you may have a \$100,000 tap-in.

Mr. Lamanna said it is not inexpensive.

Mr. Carters said they have to look at that.

Mr. Gutoskey said he doesn't know if it was figured into the expenses. He said it is 26.66 people with one unit so divided by 480 that is like 18 sewer units or \$108,000.00.

Mr. John Sowers of 8480 Woodberry Boulevard testified that he has the house between Ms. Mary Ellen Knific and Rt. 306 and he wants to reinforce everything everybody said and added that they have a cop directing traffic for the Fellowship Bible Church and he has seen many accidents there, in the ditch, frequently. He asked who is this benefitting, it is not benefitting us and anybody benefitting is the church, not even the school district from what he sees so he wants to reinforce what they say and he agrees with Mr. Murphy.

Mr. Lamanna said we ought to see more information before we go forth with this and you can see what some of the concerns are and he thinks you would need to sit down with the Bainbridge Police Department and the Fire Department and emergency people and you should discuss your plans with them so that they can then opine on what impact that would have on them in terms of is it going to tax their services, if they see it is not a big issue so we really would like the input from them on this and you can work through Ms. Endres to make contact with them and it is probably best if you meet with them and we would want to see from them what impact they see because they are the ones that have to respond to the emergencies or send the EMT people out and they are the ones who have to respond to the traffic accidents and deal with the traffic problems so we would like to see traffic study and you contact ODOT and see what issues and concerns they have or what issues they see have to be addressed. He said we suggest you talk to the Water Resources Department people about the sewer issue so you fully understand the implications of what that would be.

Mr. Murphy said you are in for a review and renewal of the conditional zoning certificate and you have been a good neighbor and what was granted was that you are in a residential area because Chagrin threw you out and wouldn't allow you to build in Chagrin Falls and this is something you wanted to put up and they voted to not allow you to build down there in Chagrin Falls so you came out to Bainbridge and you are in a residential area, you have been permitted to use this on a conditional use as a church and now you are basically going to turn it into a school and that is a very different thing and so this whole thing of just a slight expansion of it being for a conditional zoning certificate he thinks it is substantially different.

Mr. Lamanna said there are two parts to this and it is dealing with the current use and the second is they are talking about a future change and it is a whole separate examination and he thinks tonight we can deal with the renewal of the current conditional use. He asked if anybody has any other issues in terms of information that they need to develop to present to us.

Mr. Lewis said he does and he has seen no evidence at all of your due diligence with your own properties in your own town and he hasn't seen it, it might have been suggested with the Orange School District, he would kind of like to see a little bit more work and effort by Chagrin Falls as opposed to this is convenient. He said you have a great amount of properties and existing school campuses, you have space on some of these campuses and nobody says that the fourth, fifth and sixth graders have to be in the same cluster of modules at the same school, you have existing schools that have restrooms, gymnasiums and food service and you have your own educators at your disposal so he is just not convinced he has seen a whole lot of evidence of due diligence yet and he would really like to see that because it seems to be heading our way and we didn't ask for it.

Mr. Woofter said they have a great deal of information on their website and they are just wondering what the board specifically would like in regards to that.

Mr. Lewis said just because this is the first flush in looking at this and we have all just gotten exposed to it this evening and things have to settle in so there is a separation between practicality and emotion and he has huge concerns about any adverse impacts on Bainbridge residents.

Mr. DeWater said he has a question on the Gurney site again because that is a pretty large campus and it already has a cafeteria, it already has a gymnasium but it was said they all can't eat at the same time, what about if you stage lunches, they do that in high school, they stage their lunches to eat at different times, different gym classes.

Mr. Woofter said they already do that, they really can't eat lunch at 8:30 in the morning, that is just not practical or appropriate and we looked at that and an opportunity presented itself that we felt it was a good opportunity for the school and for the church and we are not trying to upset anybody, we are really not trying to be bad neighbors, we care very much about the education of our students, we care very much about our community and in fact Bainbridge residents come to our schools, we care very much about the students and we just want to do our best to find a site that makes sense and we will entertain any task that you have for us and we want to listen to everything you have to say with respect and we will continue to try to bring back whatever we need to and he will work with Ms. Endres on this.

Mr. Lamanna said that is good if you work with Ms. Endres, we may think of things in the coming days and we need a chance to digest it and think about this and if we have other things we will give them to Ms. Endres. He said the more we surface, it shortens the process and added that the board has had applications that have gone on for months so the more that we can get out on the table initially because of all of the iterations to get a full picture of what is happening. He said what we will do is table the modification of it and approve the renewal of the existing permit.

Ms. Knific asked if somebody in the development will be advised when the next meeting will be because we found out about it from the Chagrin Valley Times.

Mr. Gutoskey said we meet the third Thursday of every month.

Mr. Lamanna said you can always check the website. He asked the applicants when they would like to come back or would you like to defer and just give Ms. Endres notice.

Mr. Gutoskey said it is going to take longer than a month to get a traffic study done, working with ODOT etc. He asked how many people from Bainbridge go to Philomethian.

Mr. Woofter said he can find out.

Mr. Lamanna asked if it will take two or three months to get that information together.

Mr. Woofter said he thinks they can work much more diligently than that and he knows they work well together with the Federated Church and he would see them coming back hopefully as soon as they get the work done and they will try to put as much time and energy into it.

Mr. Lamanna suggested setting it for two months and if it doesn't look like you are going to be able to make it, let Ms. Endres know and we will just defer it for a third month. He told the audience that tentatively they will be on in two months but it may be three and they can check on the website when the agenda is out and it will tell you when they are on.

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

Motion BZA 2016-26 – 16349 Chillicothe Road – Chagrin Falls Federated Church

Mr. Lamanna moved to renew the existing conditional use permit without change for this property for a period of five years commencing with the date the board's decision becomes final and with respect to the request for modification and with respect to the temporary use as a public school the board will postpone that for two or three months at the time it does not appear that they will be able to complete the collection of the information requested by the board.

Mr. Gutoskey seconded the motion.

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

Since there was no further testimony, the public hearing was closed at 10:37 P.M.

Respectfully submitted,

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

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

Date: October 20, 2016

AUDIO RECORDING ON FILE

Bainbridge Township, Ohio  
Board of Zoning Appeals  
September 15, 2016

The regular meeting of the Bainbridge Township Board of Zoning Appeals was called to order at 10:37 P.M. by Mr. Michael Lamanna, Chairman. Members present were Mr. Ted DeWater; Mr. Joseph Gutoskey; Mr. Todd Lewis and Mr. Mark Murphy. Ms. Karen Endres, Zoning Inspector was present.

Minutes

Mr. Murphy made a motion to adopt the minutes of the August 18, 2016 meeting as written.

Mr. Gutoskey seconded the motion.

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

Applications for Next Month

Application 2016-30 by Michael Turner for property at 7651 Chagrin Road

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

Application 2016-31 by Jason A. Ice for property at 18015 Lost Trail

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

Application 2016-32 by Kevin Kraemer for property at 17109 Woodmere Drive

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

Application 2016-33 by Parkside Church for property at 7100 Pettibone Road

The applicant is requesting a modification of a current conditional use permit for the purpose of holding a preschool in the existing facility. The property is located in a R-5A District.

Application 2016-34 by Patrick Flanagan for Chagrin Falls Congregation of Jehovah's Witnesses for property at 8634 Washington Street

The applicant is requesting area variance(s) for the purpose of installing a new ground sign. The property is located in a R-3A District.

Application 2016-35 by Joann Randall for property at 8358 Lucerne Drive

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

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

Respectfully submitted,

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

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

Date: October 20, 2016