

Bainbridge Township, Ohio  
Board of Zoning Appeals  
September 17, 2009

Pursuant to notice by publication and certified mail, the public hearing was called to order at 6:38 P.M. by Mr. Michael Lamanna, Chairman. Members present were Mr. Todd Lewis, Mr. Mark Murphy, Mr. Mark Olivier and Ms. Lorrie Sass.

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

Mr. Lamanna noted that the board will hear BZA 2009-23, BZA 2009-24 and BZA 2009-26 first. He said BZA 2009-25 has been withdrawn and BZA 2009-18 (Tanglewood National Golf Club) will be started around 7:30 P.M.

Application 2009-22 by ECHO Real Estate Services, Inc. for Getgo Partners South for property at 17675 Chillicothe Road - Continuance

The applicant is requesting area variance(s) for the purpose of constructing an access drive. The property is located in a CB (Convenience Business) District.

Secretary's Note: This application was postponed at the request of the applicant.

Application 2009-23 by David Morgan for property at 9639 Stafford Road

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

The zoning inspector's letter dated September 17, 2009 was read.

Mrs. Joyce Morgan was present to represent this application.

Mrs. Morgan testified that there is a creek in the backyard along with an incline so the most logical place is the piece of flat land to build and to go further to the east which is toward their neighbor which slopes down and back into the creek area. She said the lot behind their rear lot is their property as well, they own two parcels and on the other side of the house is the septic system so the other side of the creek seems to be the most logical place for the shed to be.

Mr. Michael Joyce, Zoning Inspector testified that they attempted to locate the shed from the 90' setback required and found that they could not so they came in to request a variance to locate it elsewhere. He explained the location of the creek.

Mr. Murphy asked about the other lot that she owns.

Mrs. Morgan said she owns both of the lots.

The board discussed which lot line would be used to determine the rear yard setback.

Mr. Murphy said that Mrs. Morgan is here as the neighbor as well as the owner.

Mrs. Morgan said correct.

Mr. Olivier asked if there is a riparian issue as well.

Mr. Joyce said no and explained the location of the riparian.

Mr. Murphy asked if she split the lot or if she bought it from two separate owners.

Mrs. Morgan said it was already split when they bought the property and it was the same owner.

The board reviewed the zoning regulations regarding side yard and rear yard setbacks.

Mr. Lamanna referred to the zoning resolution and said it is a side lot line not a rear lot line because this is a polygonal shaped lot and the definitions in the code make it a side lot line. He read the following from Chapter 105.02 under definition of Rear Lot Line "For a polygonal or irregularly shaped lot, the course, whether straight or curved, along the lot line, the center point of which is most remote, in linear distance, from the center point of the front lot line." He said if it is 50' away from the jog, the applicant is in compliance and asked if that is the only reason the applicant is here.

Mr. Joyce said that is.

Mr. Murphy asked what the definition is of polygonal.

Mr. Lamanna said it is other than four sides.

The board discussed the definition of polygonal and the fact that the proposed shed will be 50' from the side lot line based on the definition of "rear lot line".

Mr. Joyce said he cannot disagree with the board but it is different than what he is used to seeing. He said the logical ruling would be Zoning Inspector Error.

Mr. Lamanna said the board will convert the application.

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

Motion BZA 2009-23 – 9639 Stafford Road

Mr. Lamanna made a motion to convert this application to an allegation of error by the zoning inspector.

Based on the following findings of fact:

1. The board finds that after looking at the definitions of lot line the board has determined that the rear lot line of this property is the single line farthest from the front and the other lot line nearest to the requested shed is in fact under the definition of a side lot line and since the proposed structure meets the side yard setback requirements, no variance would be required.

Ms. Sass seconded the motion.

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

Application 2009-24 by James F. Kadunc for property at 7396 Ober Lane

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

The zoning inspector's letter dated September 17, 2009 was read.

Mr. James Kadunc was present to represent this application.

Mr. Kadunc submitted photos to the board and testified that the first one is the existing shed that is there and he is trying to add a 10' x 14' addition to that. He said the second one shows the existing shed and the dotted lines show where the addition would be. He said the problem is that there is a small area on the proposed addition that would overlap the 50' sideline rule. He showed the board an overhead picture and said it shows the area where it overlaps and the problem he is facing here is that his boundary line from north to south and the way the existing shed is situated, they angle together. He said the red line indicates the about 30" – 36" overlap which he would call an equilateral triangle and showed the board another photo of the same. He said he is asking for a variance to allow him to put that shed up with a little bit of an overlap on that 50' sideline.

The board reviewed the photos submitted.

Mr. Kadunc said the way the current shed is located at an angle, his boundary line also angles in that direction and showed the board on the GIS photo. He said he talked to his four neighbors and they are all okay for him to do this.

Mr. Lamanna thanked Mr. Kadunc for his very nice drawings.

Mr. Ray Skidmore, 16354 Stone Ridge Road and neighbor to Mr. Kadunc testified that he has no objection.

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

Motion 2009-24 – 7396 Ober Lane

Mr. Lamanna made a motion to grant the applicant the following variance for the purpose of constructing an addition to his shed as shown on the site plan submitted by the applicant on the application.

1. A variance from the minimum side yard setback of 50' to 47' for a variance of 3'.

Based on the following findings of fact:

1. It is a minimal variance with just a slight corner of this shed being the total encroachment area.
2. It is less than 10 sq. ft.
3. Due the existing nature of this shed and the fact that it is slightly misaligned with the side lot line presents a practical difficulty to put this addition in any other location.
4. This would not adversely affect the character of the neighborhood or any of the adjoining properties.

Ms. Sass seconded the motion.

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

Application 2009-25 by Highland Construction for Drs. Carlos and Angela Marino for property at 7625 Cottonwood Trail

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

Secretary's Note: This application was withdrawn by the applicant.

Application 2009-26 by Lou Belknap/Agile Sign & Lighting for Charter One Bank for property at 8575 Tanglewood Square

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

The zoning inspector's letter dated September 17, 2009 was read.

Mr. Lou Belknap of Agile Sign and Ms. Jen Plants and Ms. Michelle Kelley were present to represent Charter One Bank.

Mr. Belknap testified that the request is to install a secondary sign on the side elevation and most of that is due to the fact that they are actually relocating their store from the other side from Giant Eagle because Giant Eagle is expanding so they moved on the other side of the lot and with that being said the bank with the way it is positioned now has absolutely no exposure to the side elevations or any through traffic off of Route 306. He said the south elevation has actually no exposure off of Bainbridge Road and they are not putting anything on the back side so they are asking to put the side elevation on so that the traffic and travelers as they come through will be able to at least glance through past the now Getgo station which was the Marathon, will actually see that sign on the wall prior to getting to the driveway. He said Citizens Bank is on the corner and past that gas station, it blocks the whole view so it is kind of a trapped-in type of situation and they are trying to accommodate the traffic flow as well as the pedestrians and different ones that are walking or traveling through the areas will have the opportunity to know the bank is there and have exposure to the facility. He continued by saying they realize that there are trees and different brush of that nature in the particular area so it makes it difficult as well.

Mr. Lamanna asked if the main sign is facing into the shopping center.

Mr. Belknap said yes that is correct, it is facing Giant Eagle.

Mr. Lamanna said this will be on the Route 306 side of it.

Mr. Belknap said that is correct. He showed the board a plot plan of the area and indicated the location of Chillicothe Road and said the gas station blocks most of the view and explained the location of the present sign. He said he knows there are limitations to certain signs and the drycleaners have a sign on the back of the building in hopes of people on Bainbridge Road seeing it and come into their facility as well. He said it is just a real tight little niche, it is a nice little area but it is a tight area to get good exposure.

Mr. Lamanna asked if this is well within the total wall sign square footage.

Mr. Belknap said square footage was not an issue at the time they applied, he just knows the additional sign was.

Mr. Joyce said the building is open on three sides.

Mr. Belknap said they are asking for two signs.

Mr. Lamanna asked how big the other sign is.

Mr. Belknap said it is identical to this one and that is if the logo is squared off.

Mr. Lamanna asked if the two signs will be 64 sq. ft.

Mr. Belknap said the logo is larger than the actual letters itself.

Mr. Murphy asked if Charter One has the whole building.

Ms. Jen Plants testified that they have the end cap.

Mr. Belknap said the side length of the building is 60 ft. long and the front of the building is approximately 30 ft.

Mr. Lamanna said the biggest dimension is at least 60 ft. and wants to make sure if the sign is over lot coverage the board can deal with it as well.

Mr. Belknap said the front of the building is 43 ft. in length, the total frontage.

Mr. Murphy asked if that is a photo of the front of the building.

Mr. Belknap said yes, the front elevation.

Mr. Murphy asked if Charter One took the entire restaurant frontage.

Ms. Plants said yes they built out the entire restaurant.

Mr. Olivier asked if there will be a drive-thru.

Ms. Plants said yes, but there is no signage on the drive-thru, they have a clearance sign on it for height and that is it. She said it is a two-lane drive-thru with an ATM.

Mr. Murphy asked if it is in front of the gas meters.

Ms. Plants said they stacked the gas meters to the left, it was on the drawings, built the canopy out and the first lane is the night ATM and the second lane is a tube system.

Mr. Lamanna asked if the other ATM there is going away.

Ms. Plants said the other ATM is gone and it was opened on August 30<sup>th</sup>.

Mr. Lamanna said Getgo is seeking to have a cut-through between the gas station and the shopping center but one of the issues was the ATM.

Mr. Murphy asked for an explanation of the route people will take to enter the ATM.

Ms. Michelle Kelley, Bank Manager, testified by explaining the location of the drive-thru on the GIS photo.

Ms. Plants also explained the drive-thru to the board and where it comes out.

Mr. Lamanna said that Getgo is on the agenda next month.

Mr. Lewis asked if that ATM went with this bank.

Ms. Plants replied yes and said they actually have three sides and their entrance is to the rear.

The board reviewed the ATM location and the proposed signage.

Mr. Belknap said the sign is also on the same plane of the elevation of the front sign so there is no level discrepancy.

Mr. Murphy referred to Chapter 173.03 (E) – Measurement Standards of the zoning resolution.

The board reviewed the zoning regulations regarding measurement standards.

Mr. Belknap said the existing sign is 35.9 sq. ft.

The board reviewed the calculations of the proposed signage.

Mr. Belknap said the letters are only 18”.

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

Motion BZA 2009-26 – 8575 Tanglewood Square (Charter One Bank)

Mr. Lamanna made a motion to grant the applicant the following variances.

1. A variance for the purposes of adding a second wall sign on the west side of the building as shown on the drawings submitted with the application.
2. A variance to increase the allowable signage from the calculated 59.8 sq. ft. to 72 sq. ft. for total signage.

Based on the following findings of fact:

1. This building has two sides.
2. The main entrance faces into the shopping center and the other side faces Route 306 so signage is allowed for visibility on that location as well because of the arrangement.
3. With respect to the total signage, due to the fact that the applicant's building is calculated on its narrow side, it has less signage as otherwise would be permitted.
4. The signs themselves, if looking at just the signage area without calculating it, it is a continuous box and would also be within the limits.
5. The slight increase over the permitted amount is reasonable given the size of other signs located in this area and the distance of the facility from Route 306.

Ms. Sass seconded the motion.

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

The board recessed the public hearing at 7:17 P.M. and opened its regular meeting at 7:19 P.M.

Secretary's note: See regular meeting minutes at the end of the public hearing minutes.

The public hearing was reconvened at 7:31 P.M.

Mr. Lamanna swore in all persons intended to testify on the following application.

Application 2009-18 by MRM Land Company LLC dba Tanglewood National Golf Club for property at 8745 Tanglewood Trail

The applicant is requesting a conditional use permit due to the transfer of ownership and a request for a public golf course. The property is located in a R-3A District.

The zoning inspector's letter dated September 17, 2009 was read.

Mr. Lamanna stated that this application is for a conditional use permit to transfer the ownership for the golf course and for other modifications to the conditional use permit.

Mr. Marc Strauss, applicant, was present to represent this application.



Mr. Strauss testified to the board that he would like to hold his remarks until the end. He said his application speaks for itself as to what is requested and that is to transfer the conditional use permit and as he understands, it expired upon the transfer of the property so this will be a new conditional use permit issued to MRM Land Company, LLC doing business as Tanglewood National Golf Club and in addition said none of the economic conditions have changed as he is sure the Board of Zoning Appeals is aware of in this country or in this area that would warrant this property or this golf club returning to a private club at this present time so we are asking for the next five years, a conditional use permit, so the Tanglewood National Golf Club can be able to operate as a public golf course and revisit the same again the next time this comes before the Board of Zoning Appeals in 2014. He said again he would like to reserve his comments for after the comments from anyone else who is here this evening.

Mr. Lewis asked Mr. Strauss if his reserved comments intended to be rebuttals or if this is information in testimony the board needs to hear in consideration of granting the applicant's request.

Mr. Strauss said some would be rebuttals and some would be information.

Mr. Lewis said he would really like to hear the information and asked Mr. Strauss if he has no new information.

Mr. Strauss said he can certainly get into the fact that Oakwood Country Club is closing at the end of this year, Acacia Country Club is in the court system right now which is going back and forth under a receivership, it is his understanding that Aurora Country Club is back on the market for sale for 2.4 million dollars and believes that some of the most successful clubs in the area are for example Canterbury Country Club just made \$240,000 from the Senior PGA Tournament and just sent out a letter for \$1,000 assessment to its members and the average member of the Canterbury Country Club spends between \$16,000 - \$17,000 a year, they were assessed \$20,000 per member over a period of time for a clubhouse renovation and they still got assessed again. He said Mayfield Country Club just issued a \$2,250 assessment to balance their budget for this year and his position is he does not have a clubhouse at this time and he does not have a practice facility and all of these things are what he wants to bring to the area and to the club but to do so he is going to need some time to raise some capital through the opportunity to have open public play and have the community come and see what is there or have the area golfers come to see what is there and make their own determination on whether or not in the future this is a course they would like to join and right now he has nothing to offer as a private club and added there is no pool.

Mr. Lewis asked Mr. Strauss if there is an existing operating business model that he needs in revenue to sustain the maintenance of the golf course as it stands today.

Mr. Strauss said ½ million dollars a year.

Mr. Lewis said outside of the facility improvements, just the golf course because what you (Mr. Strauss) is asking for does not have a real profound impact on clubhouses etc. but right now what is being talked about is the public on the golf course. He asked how many rounds of golf are needed to make the operating expenses.

Mr. Strauss said they don't quantify what they do in revenue as part of the rounds because they have pro shop sales, they do have food and beverage sales and what they anticipate is that they believe that they need sales and revenue of somewhere between \$750,000 to \$800,000 per year to sustain just what they have and to support debt service that will cover some of the improvements they intend to make over the winter and that is the driving range, a new cart barn, updating their maintenance building, a pro shop building and basically their plan is simply to close down the clubhouse at this particular point in time. He said they are in negotiations right now with several individuals to sell the clubhouse but they have not come to fruition as he stands before the board this evening.

Mr. Olivier asked Mr. Strauss if he has since he owned it solicited members to join a private club or has he attempted to make a go of it as a private club since ownership transferred.

Mr. Strauss said it has only been 75 days and no he has not because he does not have his marketing plan and does not have anything to offer, they do not have a restaurant or pool and they don't have the traditional things that a country club has but we put together what is known as a founders club and we went out and solicited individuals to basically invest in a fund that was used to turn over to the club, it was \$5,000 and basically unlimited golf for three years with a 6% return on your money with \$5,000 back after the third year and we made a strong campaign for that. He said they sent out fliers to Canyon Lakes, Lake Lucerne, to Tanglewood residents and they got 32 people and they are playing golf for free at the club and getting their money back and he does not have 32 people to spend \$5,000 over a three year period to play unlimited golf and then with the fact of getting their money, you have to have a return. He said there is no support here for a private club in this area and we can sit here and banter back and forth while the true meaning of a private club or a private golf course or a private country club may be what was in 1966 and may be in the deed restrictions of the homeowner's association, there is no true definition of what he needs to do other than run a private club but the point of the matter is, he is not standing here before the board saying to issue a conditional use permit for a private club and he will charge \$10.00 to join Tanglewood National Golf Club, that is not what he is here doing, he is telling the board that he has \$1.45 million dollars in a piece of property in this township that he has taken a few risks upon and as a result of that, and also they have gone from Tartan which since October of 2007 has been maintaining 2, 3 or 5 employees but he has 25 employees at Tanglewood National Golf Club between the maintenance staff, the clubhouse, the cart boys and all of the other people that work for him at the club, that is what they are doing. He said he is telling the board he is investing in this community and he is here to support this community and he is trying to bring back what once was a class A operation. He said he has talked to Mr. Joyce and he will tell you that he has called him on a regular basis at least once a week because this is very important to him and public play is important to Tanglewood National at least for the next five years to get it going and to support the improvements that he wants to do.

Mr. Strauss continued by saying he has asked Mr. Joyce weekly if there are any complaints about the public play at Tanglewood since it was allowed and there have been three e-mail complaints, it is not about golfers, it is not about traffic, it is not about what we are doing or what we are not doing at Tanglewood National Golf Club, it was simply they are not to operate as a public course and that is it and he is sure Mr. Joyce can verify their conversations and discussions and what has come through Bainbridge Township but the only complaint is that Marc Strauss is not operating within the bounds of the 1966 zoning code.

Ms. Sass said so procedurally, she wants to make sure everyone is on the same page, the applicant is asking for a new conditional use permit to run a public golf course.

Mr. Strauss said the course is grandfathered, in his understanding, pursuant to the 1966 zoning code of Bainbridge Township and the current zoning code does not provide for a golf course nor has it for many years to be operated in a residential community. He said the 1966 code says that it must be a private club, it does not say anything else other than private club and what he is asking of this board is to issue a conditional use permit to operate a golf course in a residential community pursuant to the 1966 zoning code with the exception that it be allowed to operate as a public course for the next five years and that is what he is asking for with the caveat that they continue to make improvements to the course and continue to update what is there and to be able to generate revenue that will sustain the improvements that they have had to make. He said he can stand here before the board and the board can understand this, there is no question in his mind that if he had 200, 300, 400 people paying him the traditional country club dues of \$500.00 per month minimum during a 12 month period, we would not be having this discussion, the board has to take public notes of this community, northeast Ohio and in general private country clubs across the country. He said there are only 4,000 private country clubs in the United States and this year alone 50 either declared bankruptcy or closed. He said he was in Sarasota, Florida last month traveling and looking at golf courses and the number one public course in Sarasota, Florida is Lakewood Ranch which was private at one time, went to public because it couldn't sustain the numbers and just filed bankruptcy. He said there are homes around there that are millions of dollars that can't sustain it and there is Uniontown Country Club in Pennsylvania for the first time in 122 years opened up their dining facilities to the public and that is what is going on. He said you could have, two months ago, written a check for a thousand dollars to Acacia Country Club and you could have played golf anytime you want for the rest of the season and all you would have had to do was pay a \$15 cart fee every time you came. He said Acacia Country Club stopped serving food and alcohol in July of this year, members have to go and play golf and get in their car and drive to Legacy Village for dinner or lunch, they can't even have a meal at their club anymore and that is the state of where we are today. He said the very unique private country clubs are making it and they are doing all kinds of things incentive wise to get people to come and play and we have to in 2009 start talking about the 2010 golf season and we have to re-establish Tanglewood. He said it has been as we all know on a slide since 2002 or 2003 and if you go out into the general community in this area and you ask about Tanglewood Country Club you will hear the last time they played there the greens were all cracked, the place was a mess, "I am not going back there" and he is probably charging what he is charging because of the condition and they are not going back there.

Mr. Strauss said it is going to take time and he is telling the board right now that the time is the first five years, they want to go with a state of the art practice facility, people want to come out and get involved, they want to putt and chip and even without playing the course they want to do that so they can practice, we want those state of the art practice facilities, we have the drawings and the plans and many people in this room have seen what their vision is. He said last week he got the new plans for a new cart barn which they desperately need, they want to build a new cart barn and pro shop and that is \$550,000 and added he is making a commitment to this community by buying this course for \$1.45 million and he is making a commitment for a \$175,000 practice facility and a \$550,000 pro shop building and cart barn but he can't do that and not have the support of the community or the Cleveland golf community and we need to re-establish ourselves as that. He said he talked to Mr. Dave Kraninger and they discussed this at great length and he recognizes that and people of the community recognize that the people they have playing, even though it has been public for the last 75 days and since April, they have a standard policy, it is golf shoes, collar on shirts, shorts, pants, no cut-offs, no jeans and he knows what he has to do to make this work. He said he is doing this as an opportunity and he sees this as a great opportunity for him to re-establish Tanglewood and make it what it once was moving forward but he is asking this board for this one opportunity for at least the next five years and then re-visit it. He said he is hoping that they can come back to the board and they can see he does have 300, 400 or 500 members paying \$500 a month January, February and March when we aren't playing golf and supporting the club and supporting what is there. He said he would be delighted to do that, there is no question about it but right now he does not have it and right now he does not have the ability to support what their plans and visions are for the Tanglewood National Golf Club.

Mr. Lamanna asked Mr. Joyce if there is a copy of the current conditional use for the golf club.

Mr. Joyce said he has it.

Mr. Lamanna said he was not sure if over time there were things added on or if there is something that lists any and all of the conditions and added that there are statutory conditions from the ordinance but he wants to know if there are any other conditions that have ever been established beyond just the ones listed in the ordinance.

Mr. Joyce said he did not review the entire history of the golf course so he is not aware of any changes.

Mr. Lamanna said his recollection along the lines that there were some conditions that were placed and it could have been 15 years ago that that happened.

Mr. Joyce said he has the history here but he did not go through the entire history of it, he focused on the last couple of them.

Mr. Lamanna said when looking at this, we should look at whether there are other conditions and if other conditions are needed. He said aside from that, he is looking first before the board gets to the issue of public play, what is the current status of this conditional use that are on there now.

Mr. Joyce said if the improvements that he wishes to make will require another visit to the BZA because those plans are not on the table at this time and would not be acceptable to the current conditions, there are setback violations that would be imposed and none of that is at the board at this time so any additional buildings or any training facilities will have to have another trip back to the BZA before the five years are up assuming any additional buildings would be put on prior to that.

Mr. Strauss said he just needs variances, they are just replacing structures.

Mr. Joyce said a variance runs with the land and goes with it forever, this is a conditional use, any expansion or modification of a conditional use must be done by the board of zoning appeals, he has no authority to grant those so any changes would have to go to the board.

Mr. Strauss said those structures are replacing structures.

Mr. Lamanna said there is a judgment call that the zoning inspector is going to have to make, he will have to look at any modifications to see if it is a big enough change, if one building is replaced with another, it would be the same location and roughly the same size and no variance issues with setbacks or that sort of thing, then no you would not have to come back for a new conditional use permit. He said the practice facility may require coming back depending on how extensive the set up is and that sort of thing.

Mr. Strauss said right now the way the driving range is, they will be eliminating the pool and pulling the tees back to where the pool is so it is 300 or 350 yards so you can use regular golf balls on the range.

Mr. Lamanna said that is the kind of thing that needs the zoning inspector to look at if it is a modification and not creating something new or something that is a pretty significant change, that will not change the conditional use part, but there may be some variances but that is a separate issue. He said he is not sure if there are any other outstanding conditions put on the course over the years and he does not know if they are still relevant and whether they need to be added on here so the board will have to look into what other conditions are out there.

Mr. Lewis said he can't find the baseline from the original conditional use.

Mr. Lamanna said there wasn't much on the original conditional use, there was at one point in time a waiver of paragraph nine.

The board discussed the conditional use permit.

Mr. Lamanna said the board has to deal with it as it last was because that is what is going to have to govern it because there is no superceding provision that takes over.

The board reviewed the former zoning regulations.

Mr. Lamanna said those are the basic ground rules but the question is over time whether there have been any conditions applied to the conditional use permit and he thinks there have been some.

Mr. Lewis said the board does know that there was no public play use changes granted to Mr. Romanini while he owned it.

Mr. Murphy asked if Bainbridge Township has zoning at all for public play.

Ms. Sass said it does not.

Mr. Lewis said that is different from a country club and asked what the difference is between a country club and a golf club and if it is the absence of a swimming pool and tennis courts.

Mr. Lamanna said the operative word is private, country club is not the term that is used, it is called a private golf club. He said he thinks the clear meaning is it is operated through a limited membership.

Ms. Sass said the last one she sees any copies of which the board has is the one that is current to 1983 so the question becomes from 1983 until the most recent round was there any other superceding conditions that may be have been applied by previous boards of zoning appeals.

Mr. Lamanna said his recollection is there were some conditions at one point in time, there may have been some maintenance issues and whether they are things that became basically moot after they are corrected, fixed or modified.

Ms. Sass said the board needs to know that. She asked Mr. Strauss if he wants to carry over whatever pertinent conditions of past conditional use permits that have been approved with the exception of conversion from private to public play.

Mr. Strauss said that is correct and what he sees and envisions and what the board of zoning appeals can fall back on is in the current zoning code and it is defined recreational facilities although not applied in any residential zoning district in the code itself but recreational facilities is defined as included but limited to public and private facilities open to the public which are used for golf courses, driving ranges, tennis courts, skating rinks, swimming pools, riding stables, riding trails for horses and bicycles and fishing so what he would say is that the conditional use permit would be issued for a golf course in conformity with the current definition of recreational facilities so it could be public and/or private and each one of these are defined in the current zoning code which was adopted April 13, 1987 and even though again it is not included in the zoning code, by definition, and in the code we could go back to the position of a conditional use permit we could define under the definition of recreational activities, under the current zoning code and that is what he would say would be the simplest way to address this with all of the other conditions going back to 1983.

Mr. Lamanna said they created a commercial recreation district at that time so that is why those were specifically defined and included.

Mr. Strauss said while that may be clear it doesn't say it is addressed to commercial and all he is saying is there is a definition in the zoning code of recreational facilities and what he is saying is the conditional use permit be issued in conformity with the township's definition of recreational facilities for the next five years.

Ms. Sass said the board can't do that because the board can only issue a conditional use permit based on the conditions that are specifically acknowledged for your particular zoning district.

Mr. Strauss said right which doesn't exist anymore.

Ms. Sass said you can't cross districts.

Mr. Lamanna said technically the applicant needs a conditional use permit and secondly what he really needs is a variance from the requirements of a private club which he would not characterize as a use variance because the use is a recreational use. He said there are use variances and area variances and that includes everything else that is not a use variance.

Mr. Lamanna opened the floor for other testimony.

Mr. Jarrod Flynn of Thrasher, Dinsmore & Dolan testified that he is here on behalf of Tanglewood Lake Association and said Mr. Dave Kraninger is president of the board of trustees for the lake association as well. He said they were one of the complainants with respect to the public golf course. He said the Tanglewood Lake Association asked for a complaint because Mr. Strauss did not follow up with what was the conditional use permit or the relief from the conditional use permit at the receiver side earlier this year so that is why they did complain.

Mr. Flynn continued by saying before he starts in, on behalf of the lake association, he can speak that they appreciate Mr. Strauss and his efforts and the money that he has invested in their community and what they haven't seen though is a plan and heard his plan for the first time tonight that he intends on making this a public golf course for a period of five years and then take a look at it thereafter. He said there are a number of reasons why this golf course shouldn't remain private or at least they haven't heard a reason why it should be public thus far and this board can appreciate the fact that there is a tremendous burden on behalf of Mr. Strauss here to first of all transfer the conditional use permit but then ask for a change to the conditional use permit and ask for a change to the zoning. He said he has not heard anything and this board has not heard anything that are credible facts and knows much of it is subjective but the fact is there has been no effort by Mr. Strauss since he took over ownership to have a membership drive to sustain a private golf course so first of all he has not tried so we don't know, there is nothing in the record to say that a private course cannot work here. He continued by saying that Mr. Strauss cited a number of failures of other golf courses and there are private clubs and public clubs that are suffering right now but the fact is Mr. Strauss bought this course knowing it was a private golf course and that there are deed restrictions and also zoning that restricts it to a private golf course. He said there are health, safety and welfare reasons why this golf course should remain private, it is in the middle of a development and the biggest concern with the lake association is the safety of the people in the lake association, there are winding roads, no sidewalks and from what we are hearing the reason for public that Mr. Strauss wants is he wants more play drawing from a larger crowd and that is understandable but the reality is there are safety concerns with respect to those in the community. He said a public course is not necessarily harmonious with the neighboring properties, this community was set up in the sixties as a private course community and until we see a plan other than just public, he does not think the lake association will get behind any type of public play. He said he heard the board speak about whether or not he needs a variance with the conditional use permit or the zoning change and he likens to a non-conforming use and anytime a non-conforming use is changed, you are not supposed to go beyond, you are not supposed to enlarge or expand, alter or materially change a non-conforming use and he does not think this board should do that as well. He said it is clear that it was a private course, it has always been a private course and when Mr. Strauss purchased the golf course, it was private and he thinks the lake association would welcome input in negotiations with Mr. Strauss with respect with a claim for a membership and we recognize the fact that he took over in mid-stream in the year and he needs members so some type of relaxation at least for the remainder of this year is reasonable but then we have the entire off-season and into the spring to potentially run a membership drive. He said those things haven't been discussed or presented to the lake association and he thinks that is necessary. He asked if the board has any questions.

Mr. Lamanna asked where the association wants to see this thing go.



Mr. Flynn said the association wants to see a plan, Mr. Strauss spoke of a plan and as a resident and previous president of the homeowner's association, he knows Mr. Strauss has numbers and plans and additions but this is the first he or Mr. Kraninger has been aware of a five year public play plan. He said they can sit down with Mr. Strauss and talk it over and see if there is middle ground and he does not think the lake association is interested in a five year plan, he thinks that is too far out there but he will let Mr. Kraninger speak to that but he also has not heard from Mr. Strauss why five years is necessary.

Ms. Sass asked if there has been any communications of any kind of immediate plan.

Mr. Strauss said he wants to address that. He said the homeowner's association and homeowners need to know that in this community there was a committee that went out and sought an amendment to their deed restrictions and to their association with documents to assess themselves \$300 per year indefinitely to negotiate in good faith with him to buy this course. He said Mr. Flynn stands before this board and makes no representations that are true or represented of what has happened. He said what has happened is that he put this property under contract for \$2 million in June of 2008 and he has never walked away, he has never walked away from this community, walked away from this deal or this plan that he has for what he is trying to accomplish here. He said he is the only one who stood by and put his \$1.45 million on the line, yes it is a private club, you want a private club, that is fine, you get the members to join a private club, you will have a restaurant, a driving range, a swimming pool, you will have it all, it has never happened. He said they are open right now for public play, \$30 during the week and \$40 on the weekends and kept track of the number of residents and 20% of the residents play golf at Tanglewood National Golf Club. He said 120 out of 600 and he guarantees that those 120 aren't going to pay him an initiation fee of between \$5,000 and \$12,000 and \$500 per month to belong to what is there right now, it may happen in the future but it is not happening right now. He said he attempted to negotiate in good faith with Mr. Kraninger and the board to sell this to them, he has also been ready, willing and able to sell this to Mr. Kraninger, he sent out a proposal shortly after he took over this club and believes it was fair and reasonable under the circumstances. He said they put out a plan, they sold it to the community that they were going to secure their future, prevent against development, prevent against gas wells and make sure that this stays a golf course and whatever else they want it to be. He said they are the ones that set up this legal defense fund and assessed the homeowners to raise \$350,000 and they put the price tag on it and on the mineral rights and on the development rights at \$350,000. He said he offered to sell them the entire golf course tomorrow for \$1.45 million and he will go away but he does not think that is what they want. He said they had 25 golf outings this year with an average of 110 golfers per day that has never been seen before. He read a letter he received shortly after he took over from Margo Vinkovich of 17505 Fairlawn Drive congratulating him on his purchase.

Mr. Lamanna stated that the board cannot accept this letter because it cannot be cross examined.

Mr. Strauss said that is fine but there are other residents here the board will hear from that he is hoping will support his plan and his vision. He said he made a proposal and he got back \$850,000 and they want his mineral rights.

Mr. Lamanna said the board is not here to mediate.

Mr. Strauss said the only point he is trying to make is that Mr. Flynn as an officer of the court and an attorney stands before the board and misrepresents the facts. He said everyone here knows my plan, there is a plan. He referred to a membership drive and said he got 120 residents that barely paid \$30.00 to play golf and they only play four or five times in the season. He asked where he is going to get the members and said he was a member of Quail Hollow Country Club and he dropped out because they want \$366 per month and he cannot afford it.

Mr. Lamanna asked Mr. Strauss if he has a written business plan.

Mr. Strauss said yes he has a written business plan and referred to the golf outings, how they are going to charge etc.

Mr. Lamanna asked if it has been shared with them (homeowner's association).

Mr. Strauss he does not know if they have seen it, he has only owned it for 75 days.

Ms. Sass said the board did not know it was necessarily a five year proposal, and the board has not heard any specific concrete plans but it sounds like you have specific concrete plans and now you (Mr. Strauss) said you have them in written format but the question is, have the board members seen this.

Mr. Flynn said that Mr. Strauss stated that he (Mr. Flynn) misrepresented the facts but the problem here is he has confused the fact that this is a zoning issue, this is not about negotiations to buy a golf course.

Mr. Strauss said when negotiations broke down, that is when they filed the complaint.

Mr. Lamanna said this board is trying to figure out a sensible way to deal with this situation and carry this thing forward so we can make a rational decision that is going to satisfy the interests of all the parties here and end up with the best situation for the community. He said he does not think the board is going to come to an answer tonight and he wants to give everybody else here a chance to voice their opinions.

Mr. Strauss said that would be a wonderful process in a perfect world but the perfect world does not exist today because he does not have any time, he has to release his 2010 rates, he has to make promises to people who are going to buy unlimited passes and buy gift cards for Christmas for holidays and for birthday presents. He said based upon a plan and a vision, he is going to have a driving range and a pro shop building and a cart barn but the problem is, not one of his bankers is going to give him another dime for a private country club and that is the reality and the reality is it will take him six months to build a driving range, it will take him four months to build a cart barn and about six or seven to build a pro shop building so we don't have that time. He said to issue a conditional use permit for a private country club, there is no definition and he can charge \$10.00 to join, he is not doing that, he is coming in here and telling the board what the problem is, what the issues are and what it is they want to accomplish over the next five years and that is what he is telling the board of appeals, this is not about sitting down with the board, he wants to work with the board (lake association) but the board does not want to work with him. He said the board wants to meet once a month, the board wants to consider this and get back to him, it is a voluntary board and he understands that, they have jobs and families etc. but he has a business to run right now, a business that he has invested a tremendous amount of money in this community and for Mr. Flynn to stand up here and say he represents Tanglewood Lake Association, he doesn't, he represents a very small piece, he represents Mr. Kraninger and eight other people and that is it, unless he hears differently from the people who are here now.

Mr. Lamanna said like any other organization, the organization is represented by the elected officers.

Mr. Straus said he does not disagree.

Mr. Lamanna opened the floor for other comments by the audience.

Ms. Lorie O'Neill of 8861 Tanglewood Trail introduced her husband Bob and testified that they are residents of Tanglewood and have been for about 12 years now. She said in defense of Mr. Strauss she thinks being timely on this would be desirable because he is a businessman who is the rightful owner of that club and he does need to put together a marketing plan for next year. She said she and her husband are professional marketers and she can say that having to work a season in advance, she would agree with his assessment on that so she thinks it is a fair request to be timely. She said secondly, she thinks that Mr. Strauss has characterized truthfully the golf course and a private club, a recreational type of condition, in our country and in our economy, however rather than take anyone's word for it if you are interested in really getting an assessment of the realities of a private club versus private courses, then there are real estate people certainly in Cleveland, Ohio that specialize in golf courses that you could ask for an assessment and they would be happy to provide you one in a timely manner.

Ms. O'Neill continued by saying as a resident they did go through a very painful process and she does not think it was satisfactory for any of them and she never agreed with what the board (lake association) was presenting with this defense fund and the attempt to purchase the property, she thinks it showed naiveté and the fact that Mr. Strauss did purchase the property whether we like it or not, he is the operator of that property now and he has no obligation to sell it to the residents and we should have known that as adults and as business people to begin with so even though she wouldn't agree with everything as a resident, this is the situation we found ourselves in and we are all business people and adults and we need to deal with it. She said she does think if this board is going to give a conditional use permit for a public course maybe one of the solutions to consider is not to give it on a five year basis but on an annual renewable basis that allows this board to assess whether or not it continues to meet the needs of our township and community and it will allow the residents to do the same thing and to have this forum annually to discuss any problems or opportunities.

Mr. Lamanna asked Ms. O'Neill if she lives on the course or not.

Ms. O'Neill said she lives on the course. She added that they all love their community but have been disappointed in seeing direction that has been taken on behalf of the board who never even told the residents that Mr. Strauss and they were negotiating a purchase agreement, they were told before the vote took place on the so-called legal defense fund thing but we never heard a word since then for a status update and she thinks the board has been remiss but that is there little community laundry.

Mr. Cliff McGurk of 17300 Haskins Road testified that he has been a resident of Tanglewood since 1985 so he has been there awhile. He said he has seen this golf course go from a wonderful golf course to a weed patch and he has seen playing on weekends, people out there having a good time to nobody playing and he is here to tell the board that if our trustees insist that if the private play and private course is going to go back to a weed patch, he read an article where there are 500 country clubs throughout the country looking at bankruptcy bringing public people in for dinner, allowing public play on the course. He said the reason is, there is lack of corporate member sponsorship because of the tax laws changing a number of years ago, so that drove the people away. He said with the popularity of golf you would have thought it would have been a boom for country clubs but it wasn't because the popularity of golf caused other courses to spring up everywhere so now there is competition. He said times have changed and people don't want to play the same course every weekend. He said when he was a child/teenager, he was a caddy at a country club in Sandusky and those members played the same course every time, but that doesn't happen anymore, people want to play different courses, a different course each week and go home. He said times have changed and some people think that it is going to be a private club and some how it will make home values better, he can't imagine what they are thinking because it is not going to happen and it will go back to a weed patch. He said the people who are on this board, this is a major asset for Bainbridge, so he is asking the board to do the right thing and not let that asset turn into a weed patch again.

Mr. Mort McClennan of 17259 Chillicothe Road testified that his property adjoins the golf course. He said he believes that Mr. Strauss was the only bidder, it is not a high demand item and he was delighted that Mr. Strauss bought it and he thinks the highest and best use for the property is a golf course and he (Mr. Strauss) seemed to be the only guy that had any interest in maintaining it as a golf course. He said he acknowledges that there are probably some issues associated with a public course versus a private course but we don't know what they are and it may be those issues are enough to make you not want to have a public course but it strikes him with what he has heard tonight is that it is probably worth giving it a whirl to see what happens. He said his question is what kind of complaint, if a conditional use permit is granted, would be necessary to terminate that permit, what level of dissatisfaction would this board have to hear for it to be terminated and if it was terminated, how much notice would be given. He said if it is not a problem, then there is no problem, it is only a problem if there are issues and he would like to hear a legal definition on what a problematic issue would be and the steps that would need to be taken to remedy that.

Mr. Lamanna said one of the issues is what does private mean and what does the impact of a private club on another landowner's versus a non-private club and that is what the board is going to have to look at, and that is what would be the impact of one versus the other. He said he knows from hearings here and from other sources that even when it was operated as a private club and a prior owner it was surely not free of complaints about some of the things that went on there so a private club may not necessarily ensure everything the residents want either and that is one of the things the board has to look at. He said public versus private but how does that impact the other property owners and are there other alternatives and if the property owners are being anymore burdened if it is being operated one way versus another.

Mr. McClennan said that last time he was in this chamber there was a crowd of people complaining about ODOT straightening Rt. 306 and the public opinion was strongly opposed to change and he thinks he was the only one in the room in favor of it and today, he thinks, everybody would agree it was a good idea and he sees reluctance to change but more specifically if a homeowner complains that somebody knocked over their nasturtium is that grounds for terminating the conditional use permit.

Mr. Lamanna said it has to be looked at on the basis if there is a situation where the use of the club is public use, and if it is allowed, it can't pose anymore of a problem on the property owners than if it was a private course and at some point in time if one person complains about one situation that is not enough but if 100 people complain about the same situation, that is a different story. He said if there are conditions set up, then those conditions need to be satisfied.

Mr. Tom Ohlson of 17470 Longmeadow Trail testified that he lives on the 17<sup>th</sup> fairway and has one of the larger lots (1-1/2 acres) and he has had issues with some golfers coming through but he does not think it is any different between a private and a public course but his concern is the people's attitudes, he does have people coming into his yard, he does not mind that at all, but they drive up and if he asks them nicely 9 out of 10 times they are fine.

Mr. Ohlson continued by saying he does have issues about people trying to hit out of his yard, one or two feet does not bother him, but they are 30 feet into his yard. He said most people are nice about it when he tells them they are out of bounds, some people get a little hostile which is kind of surprising and makes him a little nervous at times because of his family so he would like to see a plan, he is happy there are people out there, but he would like to see a plan, what the rates are going to be next year, he wants to know the costs or if it is going to be a little bit more expensive with higher expectations for the people who are coming through their community. He said he knows Mr. Strauss is trying but he had some other issues regarding the woods and he was down there with his daughter one day and someone was urinating in his woods and that stuff happens and he didn't make a formal complaint but he does want to make sure that if we are going to have these people come through our community, he would like a business plan, he has seen people with jeans, he has seen people in t-shirts and he saw someone play barefoot. He said he knows it can't be monitored 100% but he would expect that higher standards be kept here.

Mr. Lamanna asked Mr. Ohlson how long he has lived there.

Mr. Ohlson said two years.

Mr. Robert Miller of 8850 Tanglewood Trail testified that he has been a resident of Bainbridge for 27 years and a resident of Tanglewood for 24 years. He said he commends Mr. Strauss for improving the course and he thinks it looks better now than it has for years and the biggest concern the residents have is they have seen over the last few years the course deteriorate and primarily it was due to a lack of reinvestment by the previous owner. He said if the course had been kept up, perhaps it could have been more profitable and thinks it should be allowed to go public but at the same instance he thinks there should be some accountability on Mr. Strauss' part to make sure that if he says he is going to be doing things in a period of time that they are done. He said by extending his permit for five years, that might be a bit of a stretch, maybe to do it one or two years at a time and to go back and say these are the accomplishments he made the last year or two years and he is living up to the plans he set forth which do need to be presented to this board along with the Tanglewood Homeowner's Association. He said if Mr. Strauss does that, he thinks it can continue on and at the end of five years and if he has fulfilled his obligations, then he has no problem with continuation of five years, but he thinks in the interim of five years to make sure the course does not deteriorate again, he thinks it is a good idea to do it on a year to year or a two year basis.

Ms. Mary Hughes of 17444 Longmeadow Trail testified that she has lived in Tanglewood for about 31 or 32 years now and she lives in a condo on the golf course and she is thrilled that Mr. Strauss bought the golf course and she thinks he has done a good job so far and it is the first time in years that she has played golf at Tanglewood on a regular basis because she could not afford to become a member but to go out there and play on the weekend with one of her kids is a wonderful thing.

Ms. Hughes said there are two components to what is going on with this situation and one of them has to do with the negotiations between the homeowner's association and Mr. Strauss and it has to do with how Tanglewood Country Club or golf course will proceed from here on in and until last night, she did not know exactly what was going on but she spoke to Mr. Strauss last night and she spoke to Mr. Kraninger today and added that she works for a judge and he mediates and negotiates disputes all of the time and these folks are good folks and they are not that far apart in her eyes as far as negotiations are concerned and she thinks if Mr. Strauss presents a plan to the homeowner's association, she does not see them being hostile to Mr. Strauss but her personal opinion is that Tanglewood has never been a viable club. She said Mr. Romanini called it a private club but ran it as a public club and he lost all of the members so it is great to see people back on the golf course again and she really appreciates that but she does not think these folks are that far apart from each other and it would be a lot easier for the residents to come here jointly and ask for a variance for a conditional permit but if they are willing to sit down and talk, she does not think it is as big a problem as it is appearing to be and she does not think the homeowner's association is fundamentally opposed to a semi-private that has a whole world of connotations and possibilities or possibly a public golf course, she just thinks they really need to sit down and do that work now and accommodate this because of the time crunch this poses.

Mr. Robert O'Neill asked if Mr. Romanini came to this board once.

Mr. Olivier said he would come for his conditional use permit but he has never come for public play.

Mr. Lamanna said never officially.

Mr. Olivier said he opened it up for public play and never came in front of this board to request it.

Mr. Lamanna said the board never really had an application from him.

Mr. O'Neill said if he (Mr. Romanini) did, he wanted to know the history behind it.

Mr. Lewis said the board wanted that document tonight when looking at the baseline of what was pre-existing conditions.

Ms. Sylvia Piper of 17630 Eastbrook Trail testified that she has lived in the area for almost 17 years and there have been a lot of changes in everybody's life, if you want to go back to 1966, look back yourself, you have made changes everyday. She said she has lived through one depression already and when we came out of it we gave people a break and we told them they have a chance. She said Mr. Strauss has a vision and a determination and she thinks he will be successful at it, just give him a chance and make it public at least for the five years and let him prove himself and she thinks he can do it. She thanked the board.

Ms. Hughes said we are going to be together for some time, Mr. Strauss, Mr. Kraninger and myself and all of the people that live in Tanglewood, we need to make this work and we need to work together to make this happen.

Mr. Tom Ohlsen of 17470 Longmeadow Trail testified that there were a couple of people that suggested going away from a five year and going to an annual basis but that seems to be the prudent thing to do, if it works and it is all good, it can be renewed next year, and the year after and the year after that. He said he has no idea what is going to happen five years from now or four years from now and maybe two years from now it is viable to have a private course, so why not let change take its place and do it for a year, come back a year later and try again.

Mr. Tony Piteo of 17380 Haskins Road testified that he has been here around 30 years and he thinks Mr. Strauss should be given a chance, he has done wonders with the course, the course has turned into grass and said he was going to take care of the whole 9<sup>th</sup> hole himself and play it himself but he bought the course. He said Mr. Strauss has done a wonderful job and the people he has working for him are all very nice people and he (Mr. Piteo) has played there many times and he is sure many more Tanglewood residents will play there but they really don't know what is happening with the entire cycle here between Mr. Strauss and the Tanglewood board and they will get it together eventually because if Mr. Strauss wants to be successful, everybody around here wants it too and we want it to be successful because it is our backyard, it is our home, we live there and we are proud of Tanglewood and Tanglewood National, we are very proud to live here in Bainbridge so it is all about us being proud of where we live, so we would love to see him (Mr. Strauss) succeed and he is behind him 100% but he does not think we should give him only one year, he thinks he should go two years because you really can't do anything in one year on the golf course, it takes a lot if he is going to tear down the buildings, he is going to have construction there and he is probably going to end up spending \$300,000 at least to make it look decent. He said right now it is like a shambles but he is willing to spend money on it and he thinks Mr. Strauss is an intelligent enough person that he will give us a plan or show us something in writing what he is planning on doing and show our board members and if things go smoothly, they will go smoothly from now on. He said the big thing with golf courses is having parties, having a place to have festivities, having other people come to our community and when they come to our community, they will talk about our community and they will say what a wonderful place, how nice this is and it broadens the future for Mr. Strauss and it broadens the future for us and it all goes together and we all have to support each other. He said if Mr. Strauss is willing to invest \$1.45 million, he deserves a break, we have to give him a chance to succeed because the economy is horrible and all he hears is change, he does not want to hear that word anymore.

Mr. Ed Pressman of 8628 Tanglewood Trail testified that he lives on Tanglewood Trail but does not face the golf course. He said he thinks there is a concern about traffic because he lives on the bend and he does see some increase in traffic and he has a concern because he has a young daughter who walks and rides a bicycle and there are a lot of walkers.



Mr. Pressman said there are two points of view here and one is the reality of what are we going to see if this thing fails and he does not know how the traffic thing can be resolved but he feels that we need a golf course in this community but the big problem is bringing people into the center of a community and if there is any possible way or restricted way of getting to the golf course if that is possible. He said he does believe that we should give a two year usage, he thinks one year is a little tight and the last thing is there seems to have been a breakdown in communication between the two parties and on our part as far as the community goes, we did not get as much information on what is going on so we see the tension but he thinks our board needs to take a look at our community that is kind of sagging and we all see it is an issue with trying to make the golf course viable so he thinks Mr. Strauss has done a great job and he thinks he is trying.

Mr. Bill Oler of 17118 Northbrook Trail testified that he has been a Tanglewood resident for the last 16 years and he is embarrassed that the negotiation process between the community and Mr. Strauss has spilled over into these chambers as it did tonight. He said he is embarrassed for his community because these negotiations were to have taken place and what you are seeing today is the upshot of a lack of an agreement between the two sides. He said the board has heard testimony tonight that obviously weighs in favor of the petitioners request to be granted what you call it, a variance or some relief with regard to public/private play and he is 100% in favor of that because it is going help us create value for our community and he is all in favor of creating value because that is going to mean as homeowners our home values will continue to rise or at least not fall and he thinks a two to three year window, one is too short, is certainly not unreasonable to give to a conditional use permit permitting public play and private golf course industry is on the decline. He said Mr. Strauss stepped up and it is not about how you start, it is about how you finish, and he had a couple of false starts about the acquisition process but he came through in the end. He said he has been playing since Mr. Strauss took over the course and he sees value put back into it and he sees money being put back into it. He said he wanted to play today but the course was closed because it was being aerated and aeration is something that the former owner did not even know how to spell and yet it is so vital to the health and the quality of play and you just can't say enough about an owner who takes pride in what they have in order to make that kind of investment. He referred to the business plan and said you can ask anybody you want for a business plan and to me that is more like micromanaging his operation, he is the business owner and he is telling the board in order to push this agenda and continue to create the value in Tanglewood and in Bainbridge, if that is important, we need to have somebody here cut our grass for us and he loves seeing the grass cut and the greens being cut. He said he would love to see traffic not be an issue but in this case, traffic is a subordinate issue to the health and the welfare of the value of our community and he hopes these guys get back on track with the negotiations because it will be a win-win for all of us.

Mr. Robert Nelson of 8564 Tanglewood Trail testified that he lives in a condo and moved here a few years ago and now has another condo and he lived on #3 tee and he now lives on #7 green and he can tell the board all of the good things that are taking place right now and that is Mr. Strauss is doing a good job. He said his employees are out there every morning at 6:30 in the morning and they mow the greens every single day and the fairways about every three days and you don't find any course doing that and people are talking about the safety issue, you had better stand out on the road and see who is doing all of the speeding, they are not the people coming in, they are the kids who are 16 or 17 or 18 years old. He said he has pulled out and attempted to pull out and almost got run over so part of that aren't the people coming into play golf it is the kids who are running up and down the highway and they don't know what they are doing. He said again that Mr. Strauss is doing a great job and to him it should go public period.

Mr. Piteo said they all voted \$300 a piece (600 homes) and a lot of money is coming in and we did not vote for that money to go against somebody for him not to make something viable, we did not do that, we did it because we want to protect the value of our homes against somebody wanting to build homes on every fairway going down the street and that is why we did it.

Mr. McGurk said he heard a few suggestions such as one year or two years but the thing is as he mentioned he has bankers that he has to satisfy so one or two years isn't going to satisfy them and he is going to fail and it will not do any of us any good so that needs to be taken into consideration.

Mr. O'Neill said there needs to be checks and balances.

Mr. Lamanna said he wants to address a couple of questions to the association. He asked Mr. Kraninger and Mr. Flynn if they really contest this issue of whether or not this can be a private club.

Mr. Dave Kraninger, President of the Tanglewood Lake Association testified that it is the law they are really contesting, if that is a good word to use. He said the reason he is here tonight representing the association has to do with rules, they are not against change, we are for enforcing rules and there is a process to go through to change rules and that is what we are contending, there has not been any process to change the rules, there are zoning regulations and we have in the community, covenants regulations and they happen to coincide and so in that regard change in a plan leading to some formal change would make a lot of sense. He said he has talked to Mr. Straus several times in the last few months and he even asked Mr. Strauss for a plan but he filed a complaint and Mr. Strauss found out about it and the very first thing he did to me (Mr. Kraninger) was of course to come after me rather aggressively and asked why I was against this. He said we are interested in what your plans are but where are you going with this thing so that is their contention. He said to answer Mr. Lamanna's question of do we think it can be a private club, probably not, why would Tanglewood be more fortunate than many other clubs in northeast Ohio.

Mr. Lamanna said the reason he asked that question is we can go down the road of arguing about feasibility and we can spend lots of time and money and effort of him coming in and saying he can do this and it cost me this and I tried to raise this many members but if in the near term, not three to five years, but in the near term that it is not really a point of contention, he does not want to spend the board's time worrying about that issue unless the association really wants to contest that.

Mr. Flynn said they haven't seen a plan so what is five years versus four years versus two years versus one and asked what the type of public play is and what are the requirements. He said the lake association recognizes what Mr. Strauss has done, he has invested in our community and as he (Mr. Flynn) has said from the very beginning, we appreciate that and everyone in this room as a resident appreciates that but just to say all of the sudden at this BZA hearing, five years without any justification that it needs to be public for five years, why not three, why not eight. He said they have not received a plan and that is all the lake association is saying.

Mr. Lamanna asked if today this point is going to be contested, he is not saying that in three years from now the answer is going to be the same, he is saying today. He asked if there is really a contest that this is viable as a private club today.

Mr. Flynn said today no, there has been no membership drive. He said regarding opening season next, he would have to talk to his client where they feel it needs to be.

Mr. Lamanna said he does not want to go down the road of taking testimony and evidence on this and the board can spend a lot of time here and the lake association's money wasting time when there is not really an issue to be determined at this time. He asked at this point in time what issues have the association heard from the community.

Mr. Kraninger said there is absolutely a movement within the community to encourage some form of open play.

Mr. Lamanna asked if there have been complaints from people living on the golf course.

Mr. Kraninger said as voiced there have been some issues.

Mr. Lamanna asked if the lake association board thought about how they would like to see the course operated if it were being operated on a public basis.

Mr. Kraninger said he talked to Mr. Strauss about a code of conduct so we are all on the same page with regards to what is allowed, what is being done, how it is done, when it is done and we agreed to work back and forth on a code of conduct.

Mr. Lamanna asked Mr. Kraninger what other issues he sees and obviously it is the conduct of the golfers and asked about traffic.

Mr. Kraninger said it is a safety issue.

Mr. Lamanna asked how much more traffic would be coming in if it was a successful private club versus public play versus the amount of traffic is normally on Tanglewood Trail during the day.

Mr. Strauss said a study was done and if the course were open seven months a year from April 1 to October 31 their numbers where they would be successful is somewhere between 18,000 – 20,000 rounds and at that number in seven months, they discounted 30 days for weather such as rain, etc. for a six month period being open on the average from 8:00 A.M. to 6:00 P.M. they believe it is one car every six minutes on Tanglewood Trail on average and that is the traffic study they found. He said when you say there is increased traffic, to say there is one car every six minutes, so they would have 10 cars every hour doesn't increase the traffic to warrant any changes in the traffic pattern coming in off Rt. 306 or Haskins Road. He said he does this all day long with his developments, they do traffic studies when they do a development and a high traffic area or a low traffic area where they are bringing in 300 homes or 60 homes, the average car in Tanglewood is one car every six minutes during golf season for 18,000 – 20,000 rounds and that is taking into consideration that everyone comes by themselves in a car. He said they will have an increase in traffic on a Monday when they have an outing or a league on Tuesday afternoon, sure but on Tuesday, Wednesday and Thursday mornings, we have six tee times per hour, that is 24 golfers and the worst case scenario is you will have 24 cars in a 60 minute time frame and when you break it down into the entire golf season we have a study that says it is one car every four to six minutes, high time, low time it is probably one car every ten minutes.

Mr. Lamanna asked Mr. Strauss if this is a report he can share.

Mr. Strauss said and it was a study that was prepared for him, it was traffic counts and discounted 30 days for bad weather and days they would be closed etc.

Ms. Sass asked if it is in written form or not.

Mr. Strauss said it is in a general email to him and it is a general ODOT study.

Mr. Lamanna asked how often there are tee times.

Mr. Strauss said every ten minutes.

Mr. Lamanna said so in theory if you have four people coming for tee time, every ten minutes you could have four cars coming in with those people for that tee time.

Mr. Strauss said it is over a 60 minute period, there are 24 golfers in a 60 minute period so you have one every 2-1/2 or 3 minutes.

Mr. Lamanna said if you have one person for each car, you could have a car coming in every 2-1/2 to 3 minutes. He said unfortunately, most people get an overly exaggerated view of what extra is, the board has had plenty of traffic studies come in for all kinds of places and you have something that is doing a huge amount of business to have any significant effect on traffic. He said there are some things that can be done such as service vehicles could come in off of Haskins Road etc.

Ms. Sass said that it was said that the association has a concern of increased traffic and Mr. Strauss has looked at it and has a number. She asked if that information has been shared between Mr. Strauss and the lake association. She said it goes back to the point that Mrs. Hughes said, it sounds like the two are not terribly far apart and with perhaps some viable discussion you both might realize that you are much closer to all being on the same page.

Mr. Strauss said the problem is it is all perception to the public and when to walk out of here and we talked about an annual fee or a fee place course or semi-profit, the perception is when Chagrin Valley Times puts that in their headlines, next year people are going to say they can't go to Tanglewood, it is a semi-private course or a private course and to reach out to the entire community that sees a headline in the Chagrin Valley Times and change that perception, at least for the near future, is a very difficult thing and you just can't overcome that burden once it is out there so to say "Bainbridge Township relaxes play at Tanglewood to allow public play", that is huge, it is huge for the course it is huge for the future. He said he thanks everyone who supports him and his vision and what they have said this evening and he truly appreciates it and he is not opposed to coming back here at the end of the 2011 or the 2012 golf season and revisiting it. He said he has not changed his position from April of 2008 when he stood in front of a room full of people at Tanglewood Country Club and said he knows nothing about operating a golf course but he will surround himself with people who do and he thinks he has done that, he has not run away, he stood his ground and he has worked very hard to get to where he is today and he continues to do that. He said the residents are his customers and he wants them to be happy and he is glad they are happy. He addressed the gentleman on the course with the bare feet and said he chased him off the course three times and he does not pay and has not paid. He said the people who came in the beginning, we told them the rules, he bought shirts at Sam's Club and he makes them change and he has every intention of running a respectable operation and he also has a reputation here and he has to make this work. He said he wants to apologize to Mr. Kraninger and to Mr. Flynn, they will work through things but he needs time.

Mr. Lamanna said he thinks the board is going to put this off until the next meeting and in the mean time, the board would like to see a plan from Mr. Strauss as to what he is going to do over at least the next two years because that is probably the kind of time period we would be looking at before we visit this or whether it would be a re-evaluation of where we are and where we are going from there so there would not be any open commitment beyond that time.

Mr. Lamanna continued by saying from the association he would like to see what are the issues that need to be addressed, conditions and allowing them to do this and what impact it would have on the residents, the operating rules and guidelines over that period and anything the association thinks is relevant that this board needs to consider in terms of how he runs the operations so we don't create a significant additional burden on the residents from operating as a public course.

Mr. Olivier said it would be nice if they could come together.

Mr. Lamanna said there will be an extra week and he would like to see that information a week before the meeting which will be October 15<sup>th</sup> to put that information together for the meeting on October 22<sup>nd</sup> so the board has a chance to look at it before the meeting.

Ms. Lorie O'Neill asked if she could ask a procedural question. She asked Mr. Olivier if he still lives in Tanglewood.

Mr. Olivier replied yes.

Ms. O'Neill asked Mr. Olivier if he should not recuse himself from this decision.

Mr. Lamanna stated that he also lives in Tanglewood in the interest of full disclosure.

Ms. O'Neill said oh you do to, well that is problematic.

Mr. Lamanna said he does not live on the golf course.

Ms. O'Neill said these are serious issues and she thinks they should be considered. She said Mr. Flynn is also a resident of Tanglewood and represents our legal interests which is also a conflict of interest and she does not know why the board would allow that to continue, he has a fiduciary interest in the property that he is an owner of and then is representing the TLA as well so she has always considered that a conflict of interest.

Mr. Kraninger said they do not have Mr. Flynn as their general counsel, Mr. Todd Hicks is.

Ms. O'Neill said this evening he said he is from Thrasher, Dinsmore & Dolan.

Mr. Kraninger said he is representing Thrasher, Dinsmore & Dolan.

Ms. O'Neill asked if Thrasher, Dinsmore & Dolan has an interest in the Tanglewood dispute here and are representing themselves as a law firm. She said this evening Mr. Flynn is here to represent the Tanglewood Lake Association and he is also a resident of the Tanglewood Lake Association so it really would not be appropriate by most professional standards.

Mr. Flynn said he is representing his client's interests and asked if it is an issue of where he lives.

Ms. O'Neill said yes because you have an interest in the place where you live.

Mr. Flynn asked how that is any different than what he just represented from the board's perspective.

Mr. Lamanna said this is not the board's issue and it should be taken up outside.

Mr. Strauss said he respectfully asks that the board really address this this evening because he would rather there be a condition and a conditional use permit be given based upon a condition that we sit down and we present a business plan and we present a way of moving forward and then come back and complain. He said his problem is, we are about to announce our 2010 rates and we are also getting a marketing plan and we need to move forward and the only complaints he has heard about public play has come from the board in general of not having a plan. He said he does not want to misstate something someone said but for the next year or two, the board does not see it as a problem as long as we work through certain conditions and certain operating procedures so he would ask that the board seriously consider voting this evening for the conditional use permit, a condition that, and he would sit down and work through a business plan and work through a process of moving forward for the next two years.

Mr. Lamanna said no, you can't do that because it is not board's problem to concede to a private party to determine what conditions we are going to impose on this thing, we have to make that decision ourselves. He said you can talk about it and come in and present a united front but in the final analysis the board has to rule on those conditions and we can't turn that over until you negotiate, it would not be appropriate and would not satisfy the board's responsibility to the public.

Mr. Strauss said a business plan is not a legal, binding document; he presents a business plan with a process and a procedure in which he plans on implementing.

Mr. Lamanna said the board is not going to take the business plan and put that into the record and say you have to satisfy all of those conditions, the board is going to look at the key elements of it and say within these parameters, here is what you can do, the board is not looking to say you are tied to this business plan for the next year or two years or whatever, the board is not going to put on those kind of stringent restrictions. He said the board is not in a position to act on it tonight.

Mr. Strauss talked about the fees he will charge.

Mr. Lamanna said there are ways to deal with those issues and one way is to come back to this board and get relief if something is not working out, he does not want to be in the position that Mr. Strauss has to come back every third month, but if he has to come back once, it is not such a bad thing, it does not take long for this process but right now the board just does not have enough information to deal with this.

Mr. Pressman asked if the zoning board is going to have a meeting in two weeks.

Mr. Lamanna said no it will be in five weeks and the board is not going to schedule a special meeting for this. He said the board put this off at the applicant's request from the last meeting plus we need some time for people to sit down and think about this and get the stuff together they are going to submit to the board so he does not see any point in doing it before our next meeting.

Ms. O'Neill said she is really thrilled that Mr. Strauss has taken this thing over and she also wants to mention that Mr. Kraninger has worked very hard and thinks between now and the next meeting hopefully they will talk quite a bit.

Ms. Sass said the board would like to have the documentation submitted to the board by October 15<sup>th</sup> because the meeting is the following week on October 22<sup>nd</sup>.

Mr. Lamanna said he will also note for the record that whatever is decided here has no effect on deed restrictions or other private contracts.

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

Motion BZA 2009-18 – 8745 Tanglewood Trail ( Tanglewood National Golf Club)

Mr. Lamanna made a motion to continue this application to the next regularly scheduled meeting to be held October 22, 2009 and various interested parties have been requested to submit information for use at that meeting which they will provide to the board before the hearing.

Mr. Lewis seconded the motion.

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



Since there was no further testimony, the public hearing was closed at 9:27 P.M.

Respectfully submitted,

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

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

Date: October 22, 2009

AUDIO RECORDING ON FILE

BZA PH 9/17/2009

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Bainbridge Township, Ohio  
Board of Zoning Appeals  
September 17, 2009

The regular meeting of the Bainbridge Township Board of Zoning Appeals was called to order at 7:19 P.M. by Mr. Michael Lamanna, Chairman. Members present were Mr. Todd Lewis, Mr. Mark Murphy, Mr. Mark Olivier and Ms. Lorrie Sass

Minutes

Mr. Lamanna made a motion to adopt the minutes of the August 20, 2009 meeting as written.

Ms. Sass seconded the motion.

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

Meeting Schedule

Mr. Lamanna made a motion to change the meeting date for October from October 15, 2009 to October 22, 2009.

Ms. Sass seconded the motion.

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

Applications for Next Month

Application 2009-18 by MRM Land Company LLC dba Tanglewood National Golf Club for property at 8745 Tanglewood Trail - Continuance

The applicant is requesting a conditional use permit due to the transfer of ownership and a request for a public golf course. The property is located in a R-3A District.

Application 2009-22 by ECHO Real Estate Services, Inc. for Getgo Partners South for property at 17675 Chillicothe Road - Continuance

The applicant is requesting area variance(s) for the purpose of constructing an access drive. The property is located in a CB (Convenience Business) District.

Application 2009-27 by Kevin & Pam Donovan for property at 18060 Birch Hill Drive

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

Application 2009-28 by Lou Belknap of Agile Sign & Lighting for Giant Eagle for property at 8535 Tanglewood Square

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

Application 2009-29 by Chuck Agnew of Agnew Sign Company for A & E Real Estate, LLC for property at 17800 Chillicothe Road

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

The Bainbridge Township Board of Zoning Appeals set a public hearing on the above applications for October 22, 2009 at 7:00 P.M. at the Bainbridge Township Community Hall, 17826 Chillicothe Road, Bainbridge Township, Ohio and unanimously resolved to request the Bainbridge Township Board of Trustees to issue a purchase order for legal advertising.

Since there was no further business, the meeting was adjourned at 7:21 P.M.

Respectfully submitted,

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

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

Date: October 22, 2009