

Bainbridge Township, Ohio
Board of Zoning Appeals
September 17, 2015

Pursuant to notice by publication and ordinary mail, the public hearing was called to order at 7:10 P.M. by Mr. Michael Lamanna, Chairman. Members present were Mr. Joseph Gutoskey; Mr. Todd Lewis; Mr. Jason Maglietta, Alternate and Mr. Mark Murphy. Mr. Ted DeWater was absent. 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 swore in all persons who intended to testify. The board was in agreement to move the continuance application 2015-17 to the end of the agenda.

Application 2015-24 by Peter Walter Becker for property at 9615 Nighthawk Drive

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

Mr. Peter Becker was present to represent this application.

Mr. Becker testified that he would like to build a structure to store firewood and the dimensions are approximately 4' x 18' and the location of the structure is shown at the end of the concrete drive access and he would like to access it from the driveway.

Mr. Gutoskey asked Mr. Becker if he owned the lot next door.

Mr. Becker replied yes.

Mr. Murphy said a 3' variance is being requested.

Ms. Karen Endres, Zoning Inspector testified by saying yes, 3'.

Mr. Lamanna asked how tall the building is.

Mr. Lewis replied 7'.

Mr. Lamanna asked if it is open-sided.

Mr. Becker said it will have the same siding as the barn.

Ms. Endres said that Mr. Becker provided pictures.

Mr. Maglietta asked if it will be going on the concrete pad.

Mr. Becker said it is very close, about 8' from the pad and it will be a very convenient access.

Mr. Murphy said it is buried in the woods.

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

Motion BZA 2015-24 – 9615 Nighthawk Drive

Mr. Lamanna made a motion to grant the applicant the following variance for the purposes of constructing a 4' x 18' x 7' high wood shed.

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

Based on the following findings of fact:

1. A practical difficulty exists and the requested variance is minimal.
2. Due to existing paving on the lot and the fact that this is going to be used to store firewood and have some kind of reasonable access to it, it is appropriate to grant this variance.
3. The variance is minimal and it does not adversely affect the neighboring properties and there is substantial existing natural cover.
4. It is not inconsistent with the character of the neighborhood.

Mr. Gutoskey seconded the motion.

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

Application 2015-25 by Alexandra and Travis Jorgensen for property at 8254 Westhill Drive

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

Ms. Alexandra Jorgensen was present to represent this application.

Ms. Jorgensen testified that they want to put up a garden shed in their backyard. She said on August 31st they received ARB approval from Lake Lucerne.

Mr. Murphy said it fits within the footprint of the house, it is not closer to the property line visually from the street.

Ms. Jorgensen replied yes.

Mr. Murphy said it is not on the same side as the driveway it is in the opposite corner of the lot from the driveway, it is tucked into the back corner.

Mr. Gutoskey asked if those are pine trees down the line.

Ms. Jorgensen said yes and in the back too.

Mr. Maglietta asked if they will be removing any trees.

Ms. Jorgensen replied no.

Mr. Murphy asked about the shed on the neighbor's property.

Ms. Jorgensen said no they are over a couple.

Ms. Karen Endres, Zoning Inspector testified that they do not require a variance on the side line setback because the shed location is within the envelope of the house.

Mr. Lamanna said the prior rear yard setback for Lake Lucerne was 30'.

The board discussed the historical setbacks for Lake Lucerne.

Mr. Lamanna asked if there was any particular reason they chose 21' from the rear property line.

Ms. Jorgensen said no they just measured and knew that Lake Lucerne was 10'.

Mr. Lamanna said the prior zoning was 30'.

Ms. Jorgensen said they can move it and adjust it then.

Mr. Lewis said it was a minimum of 10' on the side and 30' on the rear yard setback and this is about 28' or so off of the side and it is within the shoulders of the house which is perfectly fine, you are asking for 21' off of the rear line, Lake Lucerne's standards are 30' so that is essentially why you are here asking for a variance, for 9' from the rear yard setback.

Mr. Lamanna asked if it would be a problem to move it 25' off of the line.

Ms. Jorgensen said no.

Mr. Murphy said it is going to go into the trees.

Ms. Jorgensen said there is probably about 9' of foliage so we could put it anywhere in front of that.

Mr. Murphy said the neighbor to the right has a shed similarly off of the back lot line.

The board viewed the properties on the aerial photo.

Ms. Jorgensen said they are willing to do whatever the board wants them to do, they have plenty of room.

Mr. Lewis said they are taking advantage of the natural screening.

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

Motion BZA 2015-25 – 8254 Westhill Drive

Mr. Lamanna made a motion to grant the applicant the following variances for the purposes of constructing a 12' x 10' shed.

1. A variance from the rear lot line from the nominal 90' to 25'.
2. A variance from the maximum lot coverage of 10% to 20%.

Based on the following findings of fact:

1. A practical difficulty exists in that these are pre-existing lots that are substantially smaller than the current zoning requirements.
2. The rear setback originally for this area was 30' so a 5' variance represents a small variance.
3. That variance is also consistent with other variances in the neighborhood or sheds and therefore will not adversely affect the character of the neighborhood.
4. The area of the shed will be located where it is heavily screened by natural vegetation so there will be no effect on the immediately adjacent landowners with the shed in this location.
5. The board notes that the stated location of this shed is within the existing side setbacks for the existing principal structure therefore no variance is needed on the side yard setback.
6. The board notes that included in this 20%, a brick patio was added sometime in the past and looking at that patio it is reasonable in size and consistent with similar types of structures in the neighborhood and because it is merely a brick patio it does not have any adverse effect on the neighboring properties.

Mr. Lewis seconded the motion.

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

Application 2015-26 by Samuel and Jennifer Bradstreet for property at 249 (aka 16361)
S. Franklin Street

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

Mr. Alan Brown and Mr. Sam Bradstreet were present to represent this application.

Mr. Bradstreet testified that they want to put an addition on the house to add additional room and a family room to make the house more functional for their family. He said they are removing a three-season room off the back as well and added that they have owned the house for about a year.

Mr. Lamanna said it looks like there have been some previous additions.

Mr. Murphy said there will be an increase in the backyard.

Mr. Bradstreet said that is the goal by getting rid of the three-season room, it is very plain and does not match the house.

Mr. Lamanna said this will be a two-story addition and no other changes with driveways, walkways or anything like that.

Mr. Bradstreet said no and added there will be new landscaping.

Mr. Murphy asked to view this property on the aerial map.

Ms. Karen Endres, Zoning Inspector brought the property up in the Pictometry view.

Mr. Gutoskey said the side setbacks are consistent with the neighbors.

Mr. Bradstreet said they had a survey done.

Ms. Endres said the lot lines on this program are not necessarily surveyor accurate.

Mr. Bradstreet said it is hard to see but our neighbors have almost the same addition as we are putting on.

Mr. Maglietta said it is right there along the tree-line.

Mr. Bradstreet explained the location of the proposed addition to the board.

Mr. Maglietta said you are not going to disturb the land that much.

Mr. Bradstreet said no it will be an improvement and will maintain the privacy which will improve it.

Mr. Lewis said it will improve the character.

Mr. Lamanna said it will be less congested in the backyard and will improve the look and feel of the property. He said from the neighbor's standpoint, in looking, the house may be slightly closer but it is going to be more compact which will give them a better look than a long drawn out house that kind of blocks the whole lot. He said by moving it and making it more compact is going to improve the situation.

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

Motion BZA 2015-26 – 249(aka 16361) S. Franklin Street

Mr. Lamanna made a motion to grant the applicant the following variances for the purposes of constructing an addition to the house in accordance with the plans that were submitted with the application.

1. A variance on the north sideline setback to 10'4" from the 50' requirement.
2. A variance from the rear yard setback of 44'10" from the 90' requirement.
3. A variance from the maximum required lot coverage of 10% to 31.2% for a variance of 21.2%.

Based on the following findings of fact:

1. A practical difficulty exists because this is a pre-existing lot of record that is ¼ acre versus the three acre requirement.
2. Looking back at prior applicable zoning on a one-acre lot not in a subdivision which previously allowed a 20' side yard setback and 20% lot coverage, this is still only a quarter of that so these are reasonable side and rear yard setbacks and reasonable lot coverage.
3. They are consistent with the character of the neighborhood. All of the structures along Pine Street, Cedar Street and S. Franklin Street in this area are typical lots of this size and the typical side yard setback is in a 10' to 15' range and the typical rear yard setbacks are consistent with the 44'10" rear yard setback and typically lot coverages are ranging in the 30% to 40% in this area so it will not change or adversely affect the character of the neighborhood.

Motion BZA 2015-26 – 249(aka 16361) S. Franklin Street - Continued

4. In addition it will not adversely affect the immediate neighbor to the side because there is still going to be a 10' separation which is consistent with what the neighbor already has on his side of the property line.
5. By removing the porch area and making the entire house more compact it will actually open up the view and improve the overall look of the neighborhood as compared to what it is today.

Mr. Gutoskey seconded the motion.

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

Application 2015-27 by David W. Demming for property at 8660 Tamarack Trail

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

Mr. David Demming and Mr. Jeff Bradbury were present to represent this application.

Mr. Bradbury testified that Mr. Demming wants to operate a small brewery and we have a garage on the property and right now it occupies 25% of that structure and there is an 8' wall that separates that from the rest of the structure and they are requesting to use the additional storage of empty tags, empty bottles, grain and material and to make it easier to move around and right now there is a lot stored on top of the existing structure on racks. He said they got the original variance last August and production has been going since January and they haven't heard any noise from any neighbors.

Mr. Demming testified that there is no retail whatsoever, it is distributed in Chagrin Falls.

Mr. Bradbury said there is no sign and no traffic and no outside evidence that anything is going on there.

Mr. Demming said they are using that otherwise empty space, not changing the integrity of the building whatsoever and it is connected with utilities to his home.

Mr. Lamanna asked Ms. Endres if this is a separate building or outbuilding.

Ms. Karen Endres, Zoning Inspector testified that she is considering it a separate building.

Mr. Lamanna said historically the board considered, if there has been a real physical connection, not three two by fours nailed together but a real breezeway. He said it appears that it was structurally built with real trusses, roof, shingles as a substantial structure.

Mr. Bradbury said Mr. Demming has all common utilities all the way through it.

Mr. Lamanna stated that at looking at it clearly this structure was designed and built as a single unitary structure originally, it is not something that somebody is trying to fog by us. He said historically the board has considered some cases with an accessory structure they are not allowed to add a breezeway to make it a single structure. He said as long as it is architecturally designed and set up and solidly built and this is clearly part of the whole house and it looks like some of it may have been constructed that way because of the garage access.

Mr. Demming said the former owner built the house around the garage because he was a car collector and he felt that having an empty building with a treadmill in it was not a good use of the space.

Mr. Lamanna said if it is a real solid structure then the board considers it to be all one building and added that he does not think a variance is needed.

Ms. Endres said the garage is 1,000 sq. ft. and she didn't evaluate it based on the size of the house.

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

Motion BZA 2015-27 – 8660 Tamarack Trail

Mr. Lamanna made a motion that the board determined that this particular structure, because of the way it is constructed with an actual designed-in breezeway, that was built as part of the integral construction of the property, makes this a single structure and including the dwelling portion plus the garage portion for the purposes of calculating the percentage of use or a home occupation and since based upon that determination the requested space is less than 25% of the gross floor area and no variance is necessary.

Mr. Gutoskey seconded the motion.

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

Application 2015-28 by Kevin Gray for property at 17830 English Drive

The applicant is requesting area variance(s) for the purpose of constructing a new single family dwelling and detached garage. The property is located in a R-3A District.

Mr. Kevin Gray was present to represent this application.

Mr. Lewis stated that the board looked at this in 2011.

Mr. Gray testified that with the first variance, it was incorrectly asked for, they really didn't change it from that just the offset. He said the house hasn't changed at all, it is the same footprint and same location but the variance that was awarded wasn't from the furthest point back, it was asked for incorrectly.

Ms. Karen Endres, Zoning Inspector testified that she believes the first one didn't have the garage on either.

Mr. Gray said that is true, it didn't have a detached garage and for lot coverage also. He said the property is wide it is not deep and the property to the back of it, he doesn't think anything can be done with it, it is locked.

Mr. Lamanna asked if it is landlocked behind there.

Mr. Gregory Balogh of 17820 English Drive testified that he lives to the north on the corner of English and Bainbridge.

Mr. Gray asked him if he owns the lot behind.

Mr. Balogh said he does not but it goes back quite a ways and the lot is a little askew.

Mr. Murphy said you are backing up to somebody's lot.

Mr. Gray said yes and it is all wooded.

Ms. Sherry Miller of 17840 English Drive testified that she lives to the south and asked with the setbacks, where is the front of the house going to be lined up to keep the houses consistent with the existing homes.

Mr. Lamanna said it is probably going to have to line up with the houses there.

Mr. Gray said he would love to have it line up but it would be too hard.

Mr. Gray said the garage will be about 90' and the house will be about 100' from the right-of-way and the garage is detached.

Ms. Karen Endres, Zoning Inspector testified that it will be pretty much lined up with the side of the Balogh house. She added that a 75' setback was already granted in a previous variance.

Mr. Lamanna said that variance probably would go away if they didn't build this house which is stated in the decision based on the plans submitted.

Mr. Murphy said they are asking for a rear setback variance and the lot behind is an existing lot with woods. He asked if that property owner is here. He asked Mr. Gray if he is set on building it where it is or back it off of English Drive and if his lot is wooded.

Mr. Gray said the setback is similar with Mr. Balogh's and he thinks it would look most natural.

Ms. Miller asked if they will be looking into their bedroom window.

Mr. Lamanna said the house will be pushed to the other end of the lot so you will have 150' between his side and Ms. Miller's lot line.

Mr. Gray showed the board where the septic will be located so there is no concern with the trees.

Mr. Balogh said he has not seen any plans and asked about the garage.

Mr. Gray said there will be a detached garage but they may put offices up there.

Mr. Maglietta asked if there are any other concerns.

Mr. Balogh said he would like a privacy fence on the driveway side.

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

Motion BZA 2015-28 – 17830 English Drive

Mr. Lamanna made a motion to grant the following variances for the purposes of constructing a new single family house with a detached garage on a pre-existing lot of record.

1. A variance from the maximum permitted lot coverage from 10% to 12.23% for a variance of 2.23%.
2. A variance from the minimum required rear yard setback of 90' to 62'4" for the house.
3. A variance from the minimum required rear yard setback of 90' to 60' for the detached garage.
4. A variance from the minimum required front yard setback from 100' to 75'.

Based on the following findings of fact:

1. A practical difficulty exists because this is a 1-1/2 acre lot.
2. The lot is oriented as such that the width of the lot is greater than the depth of the lot and it would be impossible to place the house on the lot and still meet the 90' rear yard setback and 100' front yard setback.
3. With respect to the lot coverage this is only 1-1/2 acres so it would be hard to place a structure of normal size consistent with the neighborhood on a lot and not exceed the lot coverage and this is only a 2.23% increase in lot coverage.
4. It is not inconsistent with the neighborhood and will not adversely affect the character of the neighborhood.
5. The existing house will actually line up with the house on the adjacent lot as far as front and rear setbacks and because of the substantial distance between this house and the next house on the street with a setback of a full 100' it will not adversely affect that or look unusual because of that distance.

Additional variance:

1. The board granted a variance to allow the simultaneous construction of the detached garage, since it is technically an accessory building and the principal building is supposed to be completed prior to construction of the accessory building. This is on the basis that it is constructed simultaneously which means when the foundation for one is being built, the foundation for the other must also be built such as the framing, roof etc. so they both go in together and the same trades are there.

Motion BZA 2015-28 – 17830 English Drive

With the following conditions:

1. The accessory building will not actually be used or occupied until the dwelling is completed.
2. The board also notes that this is a detached garage and it cannot be used for actual residential purposes such as people residing in it even though it will have a restroom facility in it but it is to be made clear that it is not permitted to be used for actual occupancy for a human residence.

Mr. Gutoskey seconded the motion.

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

Application 2015-17 by Dennis Guritza for property at 17727 Lost Trail - Continuance

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

Mr. Dennis Guritza was present to represent this application.

Mr. Guritza testified that he never dreamed he would be creating such a pickle as has created after not expecting a difficulty when he showed up at the last meeting so he has done a significant amount of research into the problem and now he understands the situation that he created. He said at the same time it is a very significant problem in Pilgrim Village with one acre lots and placement of the shed and he has a Power Point he can go through, but the bottom line is he put the shed in the location that it is primarily because of flooding and groundwater issues and being an aesthetic view. He said they went through that protocol with the architectural review board in Pilgrim Village and he was under the impression that that was the authority for putting this whole project together so as he was putting this plan together for the last 2-1/2 years and he got all of the neighbors involved and the Pilgrim Village Architectural Review Board together. He said he has presented a letter to the board and also put a Power Point together and would be happy to go through it.

Mr. Lamanna asked Ms. Endres, Zoning Inspector if she could send a letter to the architectural review boards to the various homeowners associations in the township asking them that when they approve things that they would put in their approval a standard blurb that says there are also zoning issues and in addition of obtaining ARB approval you also have to make sure that what you are doing complies with the provisions of the township zoning ordinance.

Ms. Karen Endres, Zoning Inspector testified that she already has a meeting set up with the Lake Lucerne board in October and she has already sent out letters to all of the HOAs offering to meet with them at their HOA meetings and she has heard from a couple of them and they would like her to attend their meetings and speak to them, but prior to those meetings she could send out another letter.

Mr. Lamanna said it should be attached to their form and he thinks most of them know this but at least if somebody goes to them they are going to get a piece of paper that is going to say there is another requirement that has to be satisfied. He said this board tells people all of the time they need to get ARB approval.

Mr. Guritza said as an environmental professional for a lot of years and has done a lot of projects he would like to offer another piece and as a resident of Pilgrim Village he would like to put into the record at the next annual meeting in November that the architectural review board put it in their by-laws that this is a problem because he was appalled when he went through the neighborhood and saw sheds on lot lines, some of the sheds don't really conform to what Pilgrim Village required.

Mr. Lamanna said the problem you run into is people build things without getting permits and people probably have built sheds in Pilgrim Village without even getting approval from the architectural review board and that then puts the homeowner's association in a position that they would have to sue the homeowner because they did not get permission to put it up.

Mr. Guritza said with the trees and the configuration to the left, the neighbor has a pie-shape lot and he only has a 100' width and he has got a shed to the left of his, existing and he has a picture from the road and the rear of the property because of the way the trees grew you don't see the shed in its current location.

Mr. Gutoskey asked what that is showing up on that lot behind the house.

Mr. Lamanna said he has a shed right in the middle of his lot, right where it should be.

Mr. Lewis said he would like to see a topo of this lot because the applicant is making two arguments, one is that there is a run-off issue and the lot floods and the second argument probably is aesthetics which doesn't hold water and we are not here to consider that. He said there are lots of places to put it and aesthetics is not part of our zoning consideration and added there is no practical difficulty. He said he wants to see a topo of the backyard to see how the whole thing plays out.

Mr. Guritza said they have done three projects in the backyard because of the topography.

Mr. Lewis said it is 100% flat in all locations.

Mr. Gutoskey said he looked at the 1965 topo and there was kind of a knob that went through that lot towards the culdesac and it fell both ways but it is flat.

Mr. Lewis said one location in the yard is no different than the other.

Mr. Gutoskey said in looking at the pictures in the Power Point referring to the swale and asked where the swale is at.

Mr. Guritza said to the back of the property. He explained that the topography of this whole part here was natural before all of the properties were there, was heading in this direction toward Rt. 306 and Pilgrim Avenue.

Mr. Gutoskey said he has a 1965 topo he got from the county engineer when he was looking at some other issues in here and it does show up. He said there was a high point that went right around kind of through your yard and fell both ways, not much and the lots got reshaped when the houses were built.

Mr. Guritza said there was a line of Poplars right along the back of the line which grew very large and blocked them in so that they were retaining a lot of water.

Mr. Lamanna said Poplars raise the ground level and the ground raises over the years and collects the water.

Mr. Guritza said they removed the trees, took out the stumps and put in a swale to permit that drainage.

Mr. Lewis asked if he regraded with other properties.

Mr. Guritza said yes.

Mr. Lewis said under the guise of Pilgrim Village a natural swale was created leading to an old watercourse. He asked where the swale is.

Mr. Guritza referred to the aerial map and said back here there is a natural watercourse that heads back up towards Rt. 306.

Mr. Lewis said so the water is guided to the rear of the lot, collects in the swale and then kind of shoots off in an organized path.

Mr. Guritza said they found natural drainage paths from the old topos back in that location and all five of us were having severe problems with water retention in the backyards so we put in the swales primarily at the end of our properties and that still wasn't enough because of the Poplar trees and the swale they still had some very significant low spots in the backyard so we had it regraded and his groundwater background and having a well they wanted to maximize water retention except at the point of storm so they have regraded twice and still had some low areas but they opted to focus on groundwater recharge and so they put in some small drainage points in the yard such that they have water retention in normal rains but have options for water to be leaving the property in flood conditions and we have had at least three flood conditions because the way the surface water has been rerouted to tie into Lake Taylor they rerouted the storm water in a different direction and so it is all to the front of their property from the front of the house and they have continued to have wet basements and flooding amongst all of the neighbors so putting the shed in a different location would have required them to rework that whole flooding protocol they have been working on for some time.

Mr. Gutoskey asked where the drains are located relevant to the house.

Mr. Guritza said along here this whole edge, because of the tree growth, they had standing water here, here and here (he referred to an aerial photo) so they put in a drainage outlet from here back to the swale and from here they are collecting between the two lots here, the front where the drainage goes but their serious problem is that when they put in the lots they re-routed storm water drainage along the front of their property across this property to a point roughly here and the storm water is supposed to collect here and traverse back. He said under Lost Trail along these two lines here to impede it to Lake Taylor and the problem has been this pond was put in a number of years ago and this whole area was closed where the drainage water has to come into to recharge this pond. He said the problem is all of this area now does not have appreciable 20 – 50 year storm drainage and so it all backs up so he put in the drains back here and here and all of the neighbors continued to add different waterway removal in the course of the storm and they had to totally redo their basement with waterproofing and containment situation and they have been just working multiple efforts to try to manage storm water.

Mr. Gutoskey referred to the right side of the lot behind the house and wondered if there were any drainage structures or swales or issues on the right side of the house.

Mr. Guritza said they have graded from there to the swale twice so that you have a natural progression of drainage because, the neighbors here still have standing water and have talked about taking steps to get rid of the standing water because of mosquitoes and those kind of problems because the tree and plant growth started making pockets so we have been coordinating to try to remove that situation where you have got standing water.

Mr. Gutoskey said it looks like during the last week or so they ran their downspouts to the ditch, the house to the right.

Mr. Guritza replied yes.

Mr. Lewis said so you regraded your backyard from the back of the house sloping all the way to the swale at the end.

Mr. Guritza said yes.

Mr. Lewis said so you don't have any standing water now in your backyard because you actually raised the grade at your house and you shot it all over.

Mr. Guritza said yes and they did the same thing in the front to feed into the front drain.

Mr. Lewis asked if he has septic.

Mr. Guritza said no sewer.

Mr. Lewis asked if his downspouts are tied to his drainage so everything coming off of his roof is being sent to the piping he has added.

Mr. Guritza replied yes.

Mr. Lewis said you have put grade on your backyard to make sure there is no standing water, the whole backyard slopes to the swale in the back.

Mr. Guritza said yes.

Mr. Lewis asked if this shed is on poured concrete footers.

Mr. Guritza replied yes and added that they have a very significant problem with groundhogs and chipmunks.

Mr. Lamanna asked if there are any pictures of the shed.

Mr. Guritza said he submitted pictures of the neighborhood sheds.

Mr. Maglietta asked why the shed is so big.

Mr. Guritza said they expanded the lawn equipment and he wanted to store wood for carving in the rafters and he didn't want to store it out in the open attracting critters.

Mr. Lamanna asked if he had any pictures of what this shed actually looks like. He said the board members went through their packets and did not see any pictures.

Mr. Murphy said there is something in the Power Point that says view with potting shed in place.

Mr. Guritza said yes that is the view from the road. He referred to the neighbor's shed in the aerial view and he submitted a view from the back. He said it is behind the trees on the lot.

Mr. Gutoskey said it is behind the turn-around there.

Mr. Guritza said there are a lot of trees both in the front and the back so the neighbors don't see it at all. He referred to the aerial view and said the shed is back in here, this is the back of their house and this is the swale and they graded from back here all the way here.

Mr. Murphy said his point is he tucked this shed, off of where his driveway is, it is not behind his house it is tucked away back in the woods and you can't see it from the road or the backyard.

Mr. Guritza said the neighbors don't see it at all and through the whole course of the protocol of putting this together they are in agreement on the placement of the shed for that location and their primary concern is the standing water they have been fighting with and putting it in that location facilitates that overall game plan.

Mr. Lamanna asked if the aerial of the lot can be shown again and where exactly is it located.

Mr. Guritza said they have left a lot of wild rose bushes so it is very dense.

Ms. Endres brought up the Pictometry view.

Mr. Maglietta said it is tucked away right in that little niche there.

Mr. Lamanna said Pictometry is pretty good with the lot lines.

Mr. Murphy said he thinks he said the distance off the road is about equal to the distance of the neighbor's shed, so it is similar to that, at least half-way through the back yard.

Mr. Guritza said yes and that was his point too, tuck it in so they can't see it and it is kind of parallel to their shed as well. He said he is needing to replace his shed in the near future.

Mr. Murphy asked if this is right on the property line.

Mr. Lamanna asked what is between the shed and the property line, is it a blank-walled shed with no windows or anything.

Mr. Guritza said right.

Mr. Lamanna asked if there is any landscaping between the shed and the property line.

Mr. Guritza said no it is clear but he is just keeping landscaping two feet around it but keeping a green-belt in place.

Mr. Murphy asked if there is a concrete slab.

Mr. Gutoskey asked if the slab is already poured.

Mr. Guritza replied yes, unfortunately.

Mr. Lewis said so the shed sits on a slab, there are no courses of block.

Mr. Guritza said the shed is on a slab.

Mr. Gutoskey asked if it is anchor-bolted down.

Mr. Lamanna asked if the slab has a foundation around it.

Mr. Guritza said it is just a 4" floating slab.

Mr. Lamanna said this is not a little shed either, it is a pretty good size shed, a smaller shed would not be as much of a problem, but a 12' x 24' shed is a substantial structure.

Mr. Guritza said had he known he certainly would have had this discussion earlier.

Mr. Lamanna said you understand the difficult position it puts the board in because we do have to have a basis for granting the variance and the problem is when somebody doesn't come here first, we have no opportunity to say move it 20' away and it will be okay and maybe that would make sense from a variance standpoint but when you come and say you already built it first you have a problem if everybody just finds out they can build it where they want and they can come to the zoning board and say they didn't know, chaos reigns.

Mr. Guritza said he totally understands that.

Mr. Lamanna said if we let you do it the next guy that comes in says well you let Mr. Guritza do it why are you not letting me do it.

Mr. Guritza said he would argue that the key is that the storm water run-off was the primary reason for the placement of the shed and the secondary was the discussion with the neighbors that this location was acceptable to them and those were the primary things he followed in talking with the architectural review board, he stepped through the process with them and thought he was in compliance with the protocol. He said for years he has done super fun projects and many other land management kind of things and never dreamed this would be a problem.

Mr. Gutoskey asked didn't you usually look at the zoning first.

Mr. Guritza said always but when we all got together, the architectural review board and all of his neighbors, they got together to discuss the home on Pilgrim Avenue and Rt. 306.

Mr. Gutoskey said that came through here.

Mr. Guritza said when they did that he brought up the shed, it was in the planning phases of him putting the shed together and they discussed it at length and had two subsequent backyard meetings and went through the approval process that was given to him and he made the error and assumed that it was in compliance so in talking to the three neighbors and the battle we have been fighting with storm water issues the primary driver was we didn't want to mess up that flow because, the neighbor who just had the storm drains moved, he still has a retention problem and it is a real headache because the water has no place to go and if he were to move the shed closer to his property we would have to regrade all again.

Mr. Gutoskey said that is why he and Mr. Lewis asked how the property was graded because what we have to look at is a hardship because to the right side of the lot, you could drain around it and not affect your drainage and it wouldn't be near your inlets nor over your pipe and what he is struggling with is you didn't come in and check on the zoning before you built it and he doesn't see it being a problem if it was shifted behind the house.

Mr. Lewis said based on your testimony, you already re-graded the entire backyard so there is no standing water so you have already taken care of any run-off which to him makes any location in your backyard an eligible place to put it because you have already handled the grading. He said he has a question on the Pilgrim Village signed piece and asked if that is the whole document.

Mr. Guritza replied yes.

Mr. Lewis asked if he is missing something, he has read this over and over again and though it talks about the size of the building and some description there is absolutely no discussion of location or placement on the property or anything having to do with Pilgrim Village's side yard and rear yard setbacks.

Mr. Guritza said there was an accompanying drawing.

Mr. Lewis asked if he did the grading before he got this permit.

Mr. Guritza replied yes.

Mr. Lewis said so you already handled your water flow problem before you asked for a shed.

Mr. Guritza replied yes.

Mr. Lewis said that is the fundamental problem that he has.

Mr. Lamanna asked what is in the lower left-hand corner of the document. He said it says Bainbridge Township acceptance. He said it has Geauga County acceptance not applicable, Lake County board not applicable but Bainbridge Township acceptance. He said right on this document there is something that says you ought to be talking to Bainbridge Township.

Mr. Guritza said when he asked the architectural review board if that was necessary, they indicated that it was not, and that is hearsay obviously.

Mr. Lamanna said the other two are marked on the form and that one isn't. He asked Ms. Endres that when she issued the letter on May 14th what point was the construction at that time.

Ms. Endres said for the most part a good part of the shed was finished. She asked Mr. Guritza how far along it was.

Mr. Guritza said he thinks he framed it in and closed it up.

Ms. Endres said the concrete pad for sure was in.

Mr. Lewis said he is not convinced there is any viable practical difficulty other than the applicant's preference to put it there. He said the construction is done, the form required the township's approval and it didn't happen and it appears there are only two alternatives, it either gets moved or it stays put and you screen the daylight out of it and that seems to be the bottom line of where we are at here. He said he would really like to talk to some Pilgrim Village architectural review board people because this application, if this is all there is to it, this is horribly incomplete and this is nowhere near the substance that should have been presented to this board because whatever you went to PV about you must have defined a location and that board is very well aware of township zoning and he can't in a million years believe that they would have knowingly with intent allow a structure 4' off of a property line, that is a lot to swallow.

Mr. Maglietta asked how many people are on that board of Pilgrim Village.

Mr. Gutoskey said he thinks there are three.

Mr. Guritza said he believes so.

Mr. Murphy said the Power Point has three pages from the Pilgrim Village ARB.

Mr. Guritza said correct and it is on line.

The board reviewed the application from Pilgrim Village.

Mr. Guritza said he really sees the problems or the problematic situation here and he welcomes the opportunity to work with the board and the architectural review board of Pilgrim Village to get out of this kind of situation. He said he feels very bad that he has gotten into this pickle but he doesn't think the information to him or to subsequent people is happening and he would like to do whatever he can as an environmental professional to support shooting this down because this is not appropriate and had he known this certainly we would have come to a different outcome.

Mr. Lewis asked Mr. Guritza if Pilgrim Village asked him to submit a site plan.

Mr. Guritza said they wanted drawings and he submitted the drawings that are in the package there.

Mr. Lamanna asked if this required a building permit.

Ms. Endres said she thinks it will because it is bigger than 200 sq. ft.

Mr. Lamanna said so nobody thought about getting a building permit either and asked who put this in.

Ms. Endres asked if the contract with the builder required handling permitting.

Mr. Guritza said he contracted with him for the shed and he was led to believe from the architectural review board that he didn't have to do anything other than their approval.

Mr. Lamanna said he can't believe they would have said that because they know and they are a private organization of homeowners, they have no standing as far as any governmental authority goes, we can't be relying on them to tell you that you don't have to get a building permit, that is just not reasonable and you are in the field. He said if this was somebody that never knew anything about development or land use or anything like that it might be one thing but somebody in this field certainly should know that when you go to build something you get a building permit and you got to check the zoning but we don't have anybody here from the ARB to hear what they were thinking or what they were telling you (Mr. Guritza).

Mr. Gutoskey asked who reviewed it from the board, was it Alan Tatro and added that, he is a civil engineer.

Mr. Lewis said even the application to the ARB, there is no site plan.

Mr. Gutoskey said that is just the form.

Mr. Maglietta suggested tabling it and then bring in a representative from Pilgrim Village to put a little light on the subject.

Mr. Lewis said he agrees. He said the structure is already up, it is way not compliant but had you been before us on day one he doesn't know where it would have ended up but it would have not ended up 4' off of the property line. He said the fact that it was graded makes your entire backyard eligible so there is no water run-off issue and we have been doing this with the PV board for decades and he has no presented site plan of what went to Pilgrim Village and what they signed off on, there is a form but he has no idea of what they agreed to so he is thinking, either move it or the board comes up with a screening alternative but he prefers to get the Pilgrim Village ARB in here and let's get this thing cleared up. He said either there is misinformation or somebody is not compliant for whatever set of reasons, he is not sure we are down to the bottom of this yet, not at all. He said the structure is up so whether this thing sits for another month there is no impact on this man's property, he is waiting for our decision and quite frankly he would like to render the board's decision at the next meeting because if we meet with the board, it is not compliant and there is no practical difficulty and it has to get moved it gives this man enough time to, in this particular case, pour another concrete pad somewhere else and have somebody with a backhoe or a loader move this thing across his yard and added that he is speaking for him and not speaking for the board.

Mr. Lamanna said he agrees with Mr. Lewis fully.

Mr. Maglietta said there is not enough information at all there and he agrees, he thinks the board needs to find out more.

Mr. Gutoskey said the board needs to see what was submitted and approved by the Pilgrim Village architectural review board.

Mr. Lamanna said the board would like to have somebody come and officially as a representative of Pilgrim Village's ARB to speak on behalf of the HOA and the ARB so the board can understand exactly what process they went through on this thing and how they came to this.

Mr. Lewis said we have had no testimony from the neighbors or the ARB, they are not here so he deems them as disinterested parties, it is up to us to make sure that we protect their property as adjacents.

Mr. Lamanna said the board has to protect the integrity of the ordinance.

Mr. Gutoskey said the house to the left is for sale.

Mr. Maglietta said if we let this go, the next guy is going to want it right there too unless there is a good legitimate reason.

Mr. Lamanna said unless the matter stands on its own two feet we have the issue of the next guy that comes in and wants this and also he doesn't want people to build first and ask later because they will get whatever they want because they've already built it and that is unfortunately the position you put the board in, is we have to look at all of the facts and what effect does it have on future compliance of other people.

Mr. Gutoskey said and you understand the position you put the board in.

Mr. Guritza said yes he understands but one of his questions going forward is what would be the setbacks on a one acre lot.

Mr. Gutoskey said typically for a shed we look at it and try to get it behind the main part of the house and referred to the shed in Lake Lucerne tonight.

Mr. Lewis said our setbacks are 50' from each side property line and 90' from the rear.

Mr. Gutoskey said if you meet the setbacks, you get a permit from Ms. Endres and you are good to go.

Mr. Lamanna said the board looks back historically for these size lots and what setbacks were used but some of it also depends on where your house ends up, in some cases we have houses that are 20' off the lot line and if they kept their shed behind the house that is okay that is why you can't just go around and say this one is here and this one is here and why can't I have this because there are 100 different reasons and it is case by case. He said even putting aside the people who have sheds that pre-date zoning or were just built without ever getting approval and putting all those aside you will see ones in places and there are people who really do have ravines that run in their entire yard and they have 25' of flat space available to actually build on so you will see some different things. He referred to the residents on Pine and Cedar Streets and are granted variances because the lots are 60' wide and they are ¼ acre lots so that makes sense there.

Mr. Lewis asked if a representative from the Pilgrim Village ARB can show up at the next meeting with all of the submittals for the application that they received from the applicant when they approved it.

Mr. Lamanna said the board should send the letter requesting them to attend the next meeting. He asked Mr. Guritza to also make the request.

Mr. Murphy said if the wiring hasn't been trenched yet, he wouldn't do that yet and added that it is closer than anything he has been involved with and he has been on this board for eight years and this is stacking it right on the property line and it is fairly unusual. He said he understands from a visual standpoint it is sort of tucked back in there and like Mr. Lewis said if the board does leave it there, some shrubs may have to be planted.

Mr. Guritza said he would like to support an appropriate resolution here that works for everybody and obviously he is looking at a significant expense to move it but at the same time he truly understands the situation and he thinks bringing clarification with the architectural review board is an excellent idea and he takes full responsibility for really blowing it because when he talked to the review board and the various people involved he had thought he was in compliance.

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

Motion BZA 2015-17 – 17727 Lost Trail

Mr. Lamanna made a motion to table this application to the next regularly scheduled meeting to be held October 15, 2015.

Mr. Gutoskey seconded the motion.

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

Since there was no further testimony, the public hearing was closed at 9:30 P.M.

Respectfully submitted,

Joseph Gutoskey
Michael Lamanna, Chairman
Todd Lewis, Vice Chairman
Jason Maglietta, Alternate
Mark Murphy

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

Date: October 15, 2015

AUDIO RECORDING ON FILE

BZA PH 9/17/2015

-26-

Bainbridge Township, Ohio
Board of Zoning Appeals
September 17, 2015

The regular meeting of the Bainbridge Township Board of Zoning Appeals was called to order at 9:30 P.M. by Mr. Michael Lamanna, Chairman. Members present were Mr. Joseph Gutoskey; Mr. Todd Lewis; Mr. Jason Maglietta, Alternate and Mr. Mark Murphy. Mr. Ted DeWater was absent. Ms. Karen Endres, Zoning Inspector was present.

Minutes

Mr. Lamanna made a motion to adopt the minutes of the August 20, 2015 meeting as written.

Mr. Gutoskey seconded the motion.

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

Applications for Next Month

Application 2015-17 by Dennis Guritza for property at 17727 Lost Trail - Continuance

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

Application 2015-29 by Kamyar Alaei for property at 8454 Rockspring Drive

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

Since there was no further business, the meeting was adjourned at 10:36 P.M.

Respectfully submitted,

Joseph Gutoskey
Michael Lamanna, Chairman
Todd Lewis, Vice Chairman
Jason Maglietta, Alternate
Mark Murphy

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

Date: October 15, 2015