

Bainbridge Township, Ohio  
Board of Zoning Appeals  
September 17, 2020

Pursuant to notice by publication and ordinary mail, the public hearing was called to order at 7:08 P.M. by Mr. Michael Lamanna, Chairman. Members present via Zoom were Mr. Ted DeWater; Mr. Michael Corcoran; Mr. Ian Friedman, Alternate; Mr. Joseph Gutoskey and Mr. Todd Lewis. Ms. Karen Endres, Zoning Inspector was present. Mr. Jeffrey Markley, Bainbridge Township Trustee was present to monitor and host the Zoom meeting.

Due to the COVID-19 Social Distancing guidelines this meeting was held virtually via Zoom.

Mr. Lamanna welcomed everyone to the regular meeting of the Bainbridge Township Board of Zoning Appeals, explained the public hearing process and stated that individuals will be sworn in when the application is started.

Mr. Lamanna swore in Ms. Karen Endres, Zoning Inspector and he let the record reflect that Ms. Endres was duly sworn.

Others present via Zoom were: Ms. Marion Perry, Ms. Roberta Trepal and Mr. Glenn Knific.

Application 2020-22 by Federated Church by Melissa Owen, Senior Director of People and Operations for property at 16349 Chillicothe Road - Continuance

The applicant is requesting an expansion of an existing conditional use. The property is located in a R-5A District.

Mr. Lamanna stated that this application is a continuance and is being withdrawn at the request of the applicant.

Motion BZA 2020-22 – 16349 Chillicothe Road (Federated Church Family Life Center)

Mr. Lamanna moved to dismiss this application without prejudice.

Mr. Lewis seconded the motion.

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

Application 2020-24 by Adam Feig for property at 8360 Timber Trail - Continuance

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

Mr. Lamanna stated that this is a continuance and in this case the applicant has requested to withdraw his application.

Motion BZA 2020-24 – 8360 Timber Trail

Mr. Lamanna moved to dismiss this application without prejudice.

Mr. Gutoskey seconded the motion.

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

Application 2020-25 by Paul Taylor for property at 8905 Southbrook Trail

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

Mr. Paul Taylor was present in person to represent this application.

Mr. Lamanna swore in Mr. Paul Taylor and he let the record reflect that Mr. Taylor was duly sworn.

Mr. Paul Taylor testified that he lives on Southbrook Trail which is off of Plum Creek and Plum Creek is off of Bainbridge Road so they are the only two streets in Tanglewood that don't connect. He said his house was built in 1979 if he remembers correctly on a ½ acre lot, it is on a culdesac so it is a pie-shape lot and there hasn't been any work done to the house since it was built and throughout the Coronavirus, this spring his family really enjoyed sitting outside a whole lot more and not just in the back on the deck but out front and they were able to talk to the neighbors as they walked by so they got to thinking and they want to invest in their house in the neighborhood and would really like to put a livable front porch on it, an 8' deep front porch where they can have some chairs and café tables and really use it and then furthermore they would like to take their existing wood deck down, it is pretty tight and enlarge that and then part of the interior renovation project also they are looking to expand the second floor over the garage area, add a new bedroom and bathroom so that piece of the puzzle doesn't require a zoning variance but what he learned in doing this is that his home, because it was not occupied by a certain date and he thinks it is 1978 or 1979 he missed by probably a matter of months.

Mr. Taylor continued by saying it didn't fall within the existing zoning code therefore the side yard setbacks, rear yard, lot size all of that just doesn't work so the 50' required side yard setbacks would mean that his house could be 7' 9" wide at the moment. He said he is here requesting variances regarding the front porch as well as the rear deck and really knowing that the setback slightly decreases so they are asking for a no appreciable difference from any of the homes in their neighborhood and actually less than some and that is the summary.

Mr. Lewis asked if Tanglewood requires these modifications to go through their ARB for approval.

Ms. Karen Endres, Zoning Inspector testified by saying yes they do and there is approval from their Homeowners' Association Architectural Review Board and it should be in the packet. She said she did verify that it did go through their review board.

Mr. Lamanna said most of this was all in the original PUD.

Ms. Endres said right.

Mr. Lamanna said the only real issue here is the riparian.

Mr. Gutoskey said he has a question on the riparian. He said he is not really adding any house to the rear, he is going from three deck posts to five and it looks like there is a concrete pad existing and asked if the concrete is going to remain, removed or enlarged.

Mr. Taylor said there are three posts existing and the proposed new deck has four, essentially in the same line that the existing line is in and Geauga Soil and Water and Bainbridge Zoning have asked that we keep that in the same line. He said that existing concrete patio he is taking out and replacing with pea gravel so it is actually reducing the amount of impervious area on the site and actually within that riparian setback. He said he would also like to note that the posts are up above the highest water level, the wash behind the house recedes by he believes 6', Ms. Endres was out there, so the water has never gotten much higher and the waterline would prove that. He said it is a very steep embankment.

Mr. Gutoskey said he doesn't see a problem with this, there are condos behind it.

Mr. Lamanna said you are putting in new concrete footers.

Mr. Taylor said yes.

Ms. Endres said this is a bigger picture that was taken showing the backyard area.

Mr. Lamanna said basically there really isn't any additional encroachment into the riparian area than what it is now.

Mr. Gutoskey said another thing too is the riparian has natural vegetation so when we try to preserve the riparians we try to improve the vegetation.

Mr. Lamanna said there is not really going to be any significant disturbance.

Mr. Taylor said they are not planning on removing the brush down the hill, they are not going to groom that, that will remain natural.

Ms. Endres said it is a very steep slope and she thinks you can see from the pictures.

Mr. Lamanna said certainly there is going to be no interference with stream flow or anything because it is so far down below.

Ms. Endres said this picture shows where the high water mark is.

Mr. Lamanna said it is not going to restrict the flow, it is an existing encroachment and it is not going to be increasing or be a greater encroachment and probably taking away the patio is an improvement.

Ms. Endres said there may be a more pervious surface.

Mr. Lamanna said right it will slow down a little bit. He asked if anyone has any questions.

Mr. DeWater said the front porch looks good.

Mr. Lewis said he doesn't have any questions.

Mr. Corcoran said he didn't either.

Mr. Gutoskey said he gave his questions.

Mr. Lamanna asked if there is anyone else at this meeting who is interested in this application. He said this is consistent with the original development plan, this lot is located in the Tanglewood PUD and with respect to the setbacks other than the riparian all of the proposed changes are within that.

Mr. Lamanna continued by saying with respect to the riparian setback the applicant is keeping the same existing encroachment of the deck supports and just increasing the number of posts and will leave the current landscaping of the riparian area in its natural state so there is no plan to disturb the existing landscape. He said the new posts will be on the same line as the existing posts and will not be encroaching into the riparian area or adversely affecting the riparian area which is quite away down the slope from the post footing.

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

#### Motion BZA 2020-25 – 8905 Southbrook Trail

Mr. Lamanna moved to grant the applicant the following variances for the purposes of constructing additions.

1. A variance from the minimum lot width of 200' to 112' for a variance of 88'.
2. A variance from the minimum front yard setback of 100' to 62'10" for a variance of 37'2".
3. A variance from the minimum east side yard setback of 50' to 19'5" for a variance of 30'7" for the deck.
4. A variance from the minimum west side yard setback of 50' to 14'3" for a variance of 35'9".
5. A variance from the minimum rear yard setback of 90' to 72'5" for a variance of 17'8".
6. All of those are within the PUD provisions except for the one side yard which represents a variance of 9" from that location.
7. With respect to the riparian area, a variance from 25' to 12' for a variance of 13'.

Based on the following findings of fact:

1. A practical difficulty exists because this is a pre-existing lot of record.
2. The lots were platted and designed with respect to a PUD that was in place at the time except for one very small difference.
3. The variances granted meet the requirements of the original PUD provisions therefore they are consistent with the neighborhood and will not adversely affect any of the neighboring properties.
4. With respect to the riparian area there is really no increase in the impact on the riparian area, this is an existing structure built within that area.
5. Also given the nature of the riparian area and the work being done it would not appear that this will adversely affect the riparian area or change the character of the neighborhood or adversely impact the other neighboring properties.

Mr. Gutoskey seconded the motion.

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

Application 2020-26 by Mark Jerome for property at 17126 Cats Den Road

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

Mr. Mark Jerome and Mrs. Sue Jerome, property owners; Mr. Steve Ciciretto, Architect and Mr. Jim Kusa of Auburn Home Builders were present in person to represent this application.

Mr. Lamanna swore in Mr. Mark Jerome, Mrs. Sue Jerome, Mr. Steve Ciciretto and Mr. Jim Kusa and he let the record reflect that Mr. and Mrs. Jerome, Mr. Ciciretto and Mr. Kusa were duly sworn.

Mr. Steve Ciciretto testified that he is the architect for the project. He said it is a relatively simple addition to the east or the drive side on Cats Den Road and they are seeking a variance from the riparian setback to construct that addition. He said the original house was built in 1995 so it predated the adoption of the riparian setback in Bainbridge Zoning ordinances and so the building is situated on a ridge between two swales that run to the north and south and we are taking the existing garage and doing an addition to the street so it is basically over the existing driveway so that the driveway that was constructed to the garage, we are just adding 12' to the front of it so they can get some storage in there and not have tools and yard equipment and as they go towards the street they actually were getting further away from the stream bed because it is on the north side so the addition is basically on the north side. He said the structure will be a minor encroachment since there is a drive already in place in that area and they are staying in line on the north side of it with the existing house so we are not getting any closer actually and a little bit further from the stream bed at that point. He said the house was built in 1995 and the riparian setbacks were adopted in 2004.

Mr. Lamanna asked if the riparian runs all the way down to the front of the property.

Mr. Ciciretto replied yes, along the north and south side so there is no alternative way to expand without getting into the setback. He said it is a 25' riparian setback in this area and it is draining less than ¼ mile.

Mr. DeWater asked Ms. Endres to scroll back up to the clear picture of the riparian setback. He said it is inside the boundaries of the house currently anyway.

Mr. Ciciretto said correct, it is not in the setback. He referred to the site plan and said this is the area right here.

Mr. Gutoskey asked if they are just putting it over the existing driveway.

Mr. Ciciretto said correct.

Mr. Gutoskey said no problem here.

Ms. Endres said they are streams but it is not as steep of a slope than the hearing before.

Mr. DeWater said he has no problem with this one.

Mr. Lamanna said they are not changing any of the landscaping over on that side where they are going to build this.

Mr. Ciciretto said they approved the silt fence detail, Carmella Shale of Geauga Soil and Water.

Ms. Endres said she went to the site with Colleen Sharp from Geauga Soil and Water prior to processing the application to try to determine if the riparian map was correct and it appears it is correct but when we have these heavy rains her understanding is the water doesn't go all the way up to the house and asked if that is correct.

Mrs. Jerome said that is correct.

Mr. Jerome said on Labor Day it rose about an inch.

Ms. Endres said her understanding is you don't get flooded.

Mr. and Mrs. Jerome said no.

Mr. Lamanna asked if there is anyone else interested in this application.

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

#### Motion BZA 2020-26 – 17126 Cats Den Road

Mr. Lamanna moved to grant the following variances for the purposes of constructing a 12' x 20'8" garage addition in accordance with the plans submitted by the applicant.

1. A variance to the riparian setback requirements from 25' to 14' for a variance of 11'.

Based on the following findings of fact:

1. There is a practical difficulty because it is an existing house with a driveway.
2. The house was built before the riparian setback requirements.
3. The garage addition will not actually be any closer to the riparian than the existing house is on that side.

Motion BZA 2020-26 – 17126 Cats Den Road - Continued

4. It is being built over the existing driveway which currently is located in that riparian area.
5. The applicant is also not making any changes to the grading or slopes on that side of the house in connection with this project and will not be placing any spoils into the riparian area.
6. In addition, because of the nature of the stream and its location, this will not adversely affect stream flow or existing stream banks or otherwise adversely impact the neighboring properties.

Mr. Lewis seconded the motion.

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

Application 2020-27 by Matheus Bulho for property at 17765 Fossil Drive

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

Mr. Matheus Bulho and Ms. Aline Silva were present via Zoom to represent this application.

Mr. Lamanna swore in Mr. Matheus Bulho and he let the record reflect that Mr. Bulho was duly sworn.

Mr. Matheus Bulho testified they are in Canyon Woods, right off of Bainbridge Road on Fossil Drive and the request is for the addition of the content that he highlighted in red in this picture which is an in-ground swimming pool and the pool patio that goes around it and specifically is the encroachment in the 50' setback requirement that is imposed and they have already submitted and attached in the approval from their homeowners' association. He said he thinks that is about it unless anyone has any questions.

Mr. Lamanna asked if that is a pool behind them.

Ms. Karen Endres, Zoning Inspector testified that there is a pool on the other property too.

Mr. Bulho said that is correct.

Mr. Gutoskey said he has a question for the applicant. He said the site plan that we have now, are those Pine trees or screening that is being proposed.

Mr. Bulho said that is correct.

Mr. Lamanna asked if the pool is closer to the property line than the house is.

Mr. Gutoskey asked if that is the north side.

Mr. Lamanna said the north side.

Ms. Endres said the house looks like it measures 30'42" on the site plan, the patio portion is closer.

Mr. Gutoskey said but they have a side-entry driveway. He asked Mr. Lamanna if he is suggesting that the pool line up with the house on that side.

Mr. Lamanna said we have this question on whether we've got two rear yards here.

Ms. Endres said right.

Mr. Gutoskey said the way he would always interpret this is, because the way the lot is going, the longer line would be the side yard on that side otherwise the house would be encroaching into the setback

Mr. Lamanna said it doesn't really make any sense to treat that as a rear line.

Ms. Endres said right, she processed it as a side lot line but letter of the law it is a corner lot so technically they have two rear lines however she processed this as if the north line were a side lot line, the east side is the rear line and then they actually have two front lines on Bainbridge Road and on Fossil Drive. She said the house was originally permitted as if that north line were a side line.

Mr. Lamanna said really for these corner lots what should happen is once the house is put on there whatever is the front of the house should then determine the rear line and the side line.

Ms. Endres said that is why she processed it the way she did and added corner lots are different.

Mr. Lamanna said it is better if it goes by orientation of the house whichever is the obvious front of the house, no matter which way the driveway comes in, which way the house is fronted.

Ms. Endres said she thinks she processed this the way the board would expect it to be processed.

Mr. Lamanna said the inevitable question is, you want to have it 20' from the deck to the pool.

Mr. Bulho said 20' is the patio and then there is another 10' as the pool patio, the 20' is existing and already submitted over a year ago.

Mr. Lamanna asked Mr. Bulho if he can explain why he selected that distance, some physical reason why.

Mr. Bulho said the 10' that is in between because there is a step between the patio and the pool patio and we have young children.

Mr. Gutoskey said he thinks what Mr. Bulho is saying is just because of the way the grade drops off behind the house. He said if you look at the plan itself it looks like it drops 3' or 4'.

Mr. Lamanna said from the deck.

Mr. Gutoskey said in just looking at the proposed contour lines on the plan.

Mr. Lamanna said 35, 37, 39 there is about a 4' drop between the deck and the pool.

Mr. Gutoskey said it is probably even more than that because the floor of the house is at 40.5.

Mr. Lamanna said yes if you go from the surface of the deck.

Mr. Gutoskey said it is probably 2' or 3'.

Mr. Lamanna asked if there are any other questions.

Mr. Gutoskey asked Mr. Lamanna if he was thinking about sliding the pool a little bit west or not.

Mr. Lamanna said he was wondering if it could be slid west.

Mr. Gutoskey said without having a current topo or any pictures it is hard to judge what the slope is behind it.

Mr. Lamanna said right but it certainly looks like there is enough slope.

Ms. Endres said the topo is on this aerial.

Mr. Lamanna said you've got a slope running away from the back there and it flattens out some.

Mr. Gutoskey said he doesn't think that the topo shows what is there because he thinks the contours were done before they built this development. He said even if you moved it 5' closer to the house then you could have a pool deck around the whole pool but without any pictures of what is there it is hard to tell. He asked what the existing patio is now, is it concrete, brick.

Mr. Bulho said it is pavers.

Mr. Lamanna said the one question he would have is why can't the patio remain within the setback line, why does the patio have to extend all the way down, it is already a pretty big patio.

Mr. Bulho asked if he means the pool patio.

Mr. Lamanna said no not the pool patio the other patio.

Mr. Bulho said it is already in place.

Ms. Endres said this patio right here.

Mr. Bulho said they submitted that maybe two years ago.

Ms. Endres said this patio right here has already been approved, the square right here (she referred to the site plan).

Mr. Lamanna said okay.

Ms. Endres said and the deck is here, the existing approved deck, this is the patio.

Mr. Lamanna said it looks like a swimming pool and to construct the patio.

Ms. Endres said that is the new patio.

Mr. Lamanna said you are talking about the pool patio, the patio around the pool.

Ms. Endres said correct.

Mr. Lamanna said it is a separate piece of it.

Ms. Endres said right, she treated the patio separately than the pool and there is a patio that is there already and her understanding is the pool patio will abut the existing patio.

Mr. Lamanna said there is going to be 3' of the pool patio between that and the existing patio. He asked how big the existing Pine trees are, are those existing Pine trees, he is assuming from the aerial.

Mr. Bulho said no we still have to put them in.

Ms. Endres said she believes that is proposed screening.

Mr. Lamanna said it is very hard to tell from the aerial. He asked Mr. Bulho what specifically he is planning on putting there.

Mr. Bulho said they were planning to have something at least 6' to 8' tall, Arborvitaes, evergreens.

Mr. Lamanna asked if there is enough room to have a staggered line of Arborvitaes just because of the nature of the way they are.

Mr. Bulho replied yes.

Mr. Lamanna said with Arborvitaes sometimes, they are protected enough from the wind that they aren't going to get damaged in the winter.

Mr. Bulho said they already have them.

Mr. Lamanna said they do fine if they are in the right spot, they will grow nice and big it is just that sometimes if they are in an area where they are exposed to too much wind they will get badly wind-burned in the winter and the ones maybe at the end of the row in the front, the front end towards the street you might want to put in something maybe a little hardier, a real Pine tree or Fir tree of some kind then it protects the Arborvitae behind them, you might want to talk to a landscaper but he thinks it would be better if they are staggered especially if you are using Arborvitae to stagger them so there is a little bit better cover. He said we have generally done that in a lot of places especially when you have a long line like that if you stagger them it kind of provides a better screen because you fill in a lot of the gaps and you get a good screening and this is kind of close to the party behind you who also has a pool but it looks like they have a little bit more setback than you are going to have so he thinks if they are put in a staggered line, Arborvitae, to provide the screening that would be 6' to 8'. He said the board would like to have the applicant submit to the Zoning Inspector a more detailed placement of those for her review for compliance with the screening requirements and that will cover that aspect of it. He asked if anybody else had any comments.

Mr. DeWater said it looks like he could shift that pool at least 2' to the east a little bit toward the back of the house and get it a little further away from that property line.

Mr. Lamanna said he is not sure 2' is going to make much difference and it does seem like it kind of drops off there and then it flattens out. He asked Mr. Bulho if he moves this 2' closer if that would be a problem.

Mr. Bulho said they have concerns because they don't want the pool too close to the drop because of the children.

Mr. Lamanna asked if it slopes downhill there.

Mr. Bulho said it steps down and there would still be an encroachment regardless.

Mr. Lamanna said for 2' we don't need to create a steep decline to the pool.

Mr. Bulho questioned the setbacks. After a discussion, the board determined that the setbacks presented were correct.

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

Motion BZA 2020-27 – 17765 Fossil Drive

Mr. Lamanna moved to grant the applicant the following variances for the purpose of constructing a pool and associated pool deck in accordance with the plans submitted by the applicant.

1. A variance from the minimum rear yard setback for the pool of 50' to 35.7' for a variance of 14.3'.
2. A variance from the minimum rear yard setback for the patio of 50' to 33.7' for a variance of 16.3'.
3. With respect to the granting of these variances, the applicant has agreed as a condition to provide screening along the rear property line generally in the location shown in his drawing except that the plantings will be Arborvitae, 6' to 8' high which will also be staggered rather than just a straight line and the applicant will provide to the Zoning Inspector for the Zoning Inspector's approval for compliance with this requirement a detailed plan showing the size of the Arborvitae and their exact location so it can be assured we are getting the proper screening effect here. The applicant will do that within 30 days of today by October 17, 2020.

Based on the following findings of fact:

1. There is a practical difficulty because of the size of the lot and the slope down and the limited area to be able to place a pool.
2. Other properties in the neighborhood have pools including the adjacent property.
3. With the appropriate screening that is being provided this should not have an adverse impact upon the neighboring properties or adversely affect the character of the neighborhood.

Mr. Lewis seconded the motion.

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

***Secretary's note: See minutes dated October 15, 2020***

Motion BZA 2020-27 – 17765 Fossil Drive – Amended motion

*Mr. Lamanna moved to adopt the minutes of the September 17, 2020 meeting as written except for the correction on BZA Application 2020-27 for 17765 Fossil Drive which should read that the setback for the patio is 29' and the setback for the pool is 31' based on an updated plan submitted by the applicant.*

*Mr. DeWater seconded the motion.*

*Vote: Mr. Corcoran, aye; Mr. DeWater, aye; Mr. Gutoskey, aye; Mr. Lamanna, aye; Mr. Lewis, aye.*

Application 2020-28 by Barry and Angela Broadbent for property at 8171 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.

Mr. Barry Broadbent and Mrs. Angela Broadbent were present via Zoom to represent this application.

Mr. Lamanna swore in Mr. Barry Broadbent and Mrs. Angela Broadbent and he let the record reflect that Mr. and Mrs. Broadbent were duly sworn.

Mrs. Angela Broadbent testified that they are proposing to put a shed at the back of their property, they have submitted an application with the Lake Lucerne Architectural Review Board and it was approved, they just need to get a variance for the back setback, 29' from the rear property line and 22% for lot coverage, she is not sure what that exactly means. She said it is a 10' x 12' shed.

Mr. Lamanna asked if it is 8.5' tall or so.

Mrs. Broadbent said it met the requirements for the height.

Mr. Lamanna said it is under 9' tall.

Ms. Karen Endres, Zoning Inspector testified by saying right.

Mr. DeWater asked Ms. Endres if she has a copy of a letter from Lake Lucerne ARB.

Mrs. Broadbent said that was attached in their application.

Mr. DeWater said he doesn't see it in his packet.

Mrs. Broadbent said they submitted something two different times, the first time we attached the ARB approval.

Ms. Endres said we do have the approval, she doesn't see it in the packet though.

Mrs. Broadbent said she put it in the drop box and it is attached to whatever we submitted the first time, before we knew we had to do the variance.

Mr. Gutoskey said that is the only question he had was the homeowners' HOA approval. He said the shed is behind the shoulders of the house, it is typically what we see in Lake Lucerne so he doesn't have a problem with it.

Mr. DeWater said he doesn't have a problem with the application as long as the ARB letter is in there.

Mrs. Broadbent said she doesn't have it anymore because she gave it to Ms. Endres, she didn't make a copy of it.

Ms. Endres said she has it here, it just didn't get into the packet. She gave it to Mr. Lamanna for his review.

Mr. Lamanna reviewed the ARB letter of approval.

Ms. Endres said she knew that she had it and she would not have sent it here if it wasn't approved.

Mr. Lamanna asked if there is anyone else interested in this application.

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

Motion BZA 2020-28 – 8171 Westhill Drive

Mr. Lamanna moved to grant the following variances for the purposes of constructing a 10' x 12' accessory building as depicted on the applicant's proposed plans and in the location shown on those plans as follows:

1. A variance from the minimum side yard setback on the west side to 30'.
2. A variance from the minimum rear yard setback of 90' to 29' for a variance of 61'.
3. A variance to the maximum lot coverage from 10% to 22.3% for a variance of 12.3%.

Based on the following findings of fact:

1. A practical difficulty exists because it is a pre-existing lot of record.
2. This is a modest shed consistent with what is in the neighborhood.
3. The setbacks are well within the standard setbacks within Lake Lucerne therefore they will not adversely affect the character of the neighborhood or the neighboring properties.

Mr. Gutoskey seconded the motion.

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

Application 2020-29 by William Fehrenbach, Vice President of Project Management for South Franklin Circle at 16600 Warren Court

The applicant is requesting a review, renewal and an expansion of an existing conditional use for the purpose of installing a gate and guard shelter. The property is located in a R-3A District.

Mr. Bill Fehrenbach was present via Zoom to represent this application. Others present via Zoom were Ms. Tiffany Cooper, Vice President of South Franklin Circle; Mr. Roger Kallock, Resident; Ms. Mary Oppenshaw, Resident, Ms. Caren Dalton, Resident and Ms. Kendra Urdzik, President and CEO of Judson and South Franklin Circle.

Mr. Lamanna swore in Mr. Bill Fehrenbach and Ms. Kendra Urdzik and he let the record reflect that Mr. Fehrenbach and Ms. Urdzik were duly sworn.

Mr. Fehrenbach testified that tonight they want to ask for the approval to install a guard shelter and a gate. He said since the COVID pandemic in early Spring, Judson and all of its campuses including S. Franklin Circle has restricted access to the campus to a single entry point, we do this so that we can do a health screening of every person that comes on the property and right now we are restricting access to the western most entry point off of S. Franklin and the people have their temperatures taken and they fill out a questionnaire and a health assessment. He said it has been very difficult during the hot weather and with the upcoming winter our guards out there have no protection, they are sitting in cars, temporary structures have blown over and so on so they would like to build what they consider a temporary structure so they can have electricity out there and communication and lighting so that our guards are protected. He said they consider it a temporary structure, it is being designed and they are working with an Amish carpenter to build basically a prefab or a structure that will use the same elements like hardy planking for their siding just like their buildings are, have the same shingles, window arrangement and such and they are working that through and we don't see that this is going to be any bigger than sitting on an 8' x 10' pad of gravel that they can easily remove when this pandemic is over and we no longer have to have this guard house out there. He said on the east side of the property we are going to put in an automatic gate that would restrict people from coming in the property that way, it would be electronically operated, we have spoken with Mr. Bill Lovell and the Fire Department and there are devices that we were going to put onto this so that EMS, Fire Department and Police can either activate a signal that is in all of their units or sound a horn that will automatically open the gate so that first responders can get into the property quickly. He said the drawings show where the locations are on the eastern and western side of the property. He said the one on the screen right now is for the South Franklin Street side.

Mr. Fehrenbach continued by saying these are two styles that we are considering, again all of the outside visible structure would have the same Pella window in it like is on the rest of our buildings and we have hardy plank siding and we also have some stone veneer but we are not going to go to the expense of putting stone veneer on a temporary structure. He said a pedestal will be sitting on a no larger than a 3' x 3' concrete pad, it will need electrical fed to it and probably some other low voltage control cable so that it can be remotely operated as well.

Ms. Kendra Urdzik testified that just to follow up on some of Mr. Fehrenbach's comments, obviously COVID has challenged us in many ways but at our other campuses which have indoor main entry access they were able to put in some technology in the interior but because of the expansiveness of this campus they need to have it on the outmost area of their campus so they can screen every single individual who is coming in. She said they looked at opportunities to bring it more inward into the building but it wasn't feasible just based on how large the campus is between homes and apartments and so forth and the community building, they weren't able to do that so this was their opportunity to keep their guards outside but also keep them safe in the inclement weather especially with it turning colder now and being able to still screen to keep our residents safe on our campuses.

Mr. Lamanna asked Ms. Endres when the conditional use permit is up for renewal.

Mr. Fehrenbach said he believes his records show that they last renewed in 2015.

Ms. Karen Endres, Zoning Inspector testified that she has it on here that it is up for review and renewal and expansion so this application is for the renewal. She said the permit has actually expired and she believes it expired at the beginning of this whole COVID thing and the decision was to get them in in the near future which is now.

Mr. Lamanna said he just wanted to make sure, this is their full-blown renewal.

Ms. Endres said March 19, 2020 is when it expired.

Mr. Lamanna said he noticed in here that there are no issues, no pending complaints.

Ms. Endres said she has not had any complaints..

Mr. Lamanna said you have no outstanding issues.

Ms. Endres said she doesn't have any outstanding issues, it has been quiet at South Franklin Circle and again in her letter she believes she mentioned earlier in the year, not really that long ago, she approved respite care beds and those plans are still waiting for pick up. She said it is not two new beds, it was an interior alteration to the existing building that converted some space into two respite suites for people who already live on campus.

Mr. Fehrenbach said that is exactly right, we are taking a therapy room that is under utilized and we are converting that into two temporary respites. He said respite in our world means for two weeks to a month, maybe ten days someone is feeling poorly and needs extra care and our service delivery offers respite care and that is what these rooms are for.

Mr. Lamanna asked if there are signage issues or anything like that.

Ms. Endres said she hasn't seen any problems with signs, all of the things that were a problem five years ago all seem to be resolved.

Mr. Gutoskey said he has a couple of questions. He asked if the guard house in the front will be temporary until the COVID thing is done but the gate will remain after the COVID for security in the back and then we have signs that direct people to Franklin for the main entrance, is that what you are thinking there.

Mr. Fehrenbach said yes we already do, there are signs out there that indicate anyone who wants to come in off the Rocker Road entrance, they are directed to the Franklin Street entrance.

Mr. Gutoskey asked if there are barricades there now.

Mr. Fehrenbach said now we hired temporary security, it is a security service and they are just sitting there and quite frankly this is expensive and it is sub-optimal.

Mr. Gutoskey said it is understandable so the gate will remain after this is done just to direct all of the main traffic off of Franklin so residents can come through that gate but others would have to go around to the front. He said the only other thing was the retention pond in front about the adjacent school supposedly had permission to use the pond and he thinks you had addressed that with Ms. Endres that they did not have permission.

Mr. Fehrenbach said he did and it was untrue, we gave no expressed or implied permission for anyone to come on the property much less young children without supervision. He said he expressed that to Ms. Endres he believes in writing and on the phone so in no way is that accurate, no one was given permission to come on our property without our permission.

Mr. Gutoskey thanked Mr. Fehrenbach and said those were the only questions he had.

Mr. Corcoran said the guard shack is supposed to be temporary during the COVID issue, should we set something where we revisit this and maybe a year is too early but maybe two years just to see if the guard shack is still needed or if it needs to be rezoned to be a permanent structure if it turns out that it works well for you.

Mr. Fehrenbach said they are open to that certainly.

Ms. Urdzik replied yes.

Mr. Gutoskey said on that he would think though that where it is proposed that it wouldn't need any variances setback wise.

Mr. Lamanna said he would say you can keep this thing going for up to two years, if it is going beyond two years or if you decide you want to make it permanent then you have to come in and we will review where we go from there so as long as it is gone in two years, then that is the end of it and that way nobody is going to have to come back in, we won't have to revisit it unless you want to go forward longer than that, hopefully that is plenty of time, it will resolve itself by that point in time. He said if it is not resolved by then you will probably be looking to make it a permanent structure.

Ms. Endres said then the gate would be permanent.

Mr. Lamanna said he doesn't really care about the gate.

Ms. Endres said she is just trying to clarify.

Mr. Lamanna said they have got the safety issue handled on that, they want to keep it or not keep it, some places close it only at night and leave it open during the day but he doesn't think this board should be regulating that. He asked if the board members have any other questions or if anybody else has something to say beyond what has already been said or if anybody has any concerns or issues.

Mr. Fehrenbach said on the documentation it says renewal of a conditional use permit is two to five years at the township's discretion. He asked if it will always be at five, he doesn't think the first time they renewed it it was exactly five either so there seems to be some variance so should they expect to put on their calendar that this is five years.

Mr. Lamanna said there is discretion but in this case, and he was going to bring this up when we move to the business part of the meeting, he would propose that we do five years, there is no reason not to do five years. He said generally the board goes less than five years when there was some situation where we felt that there was a need to renew it sooner because there was a particular situation and we wanted to see what developed in a shorter period of time and make some in course adjustments that are necessary at that point in time but they have been operating very smoothly and we really haven't had any issues recently so he thinks the full five years would be fine.

Ms. Endres said we talked about two years for the guard house so what is the expectation.

Mr. Lamanna said the expectation is within two years they take it away or they come back in two years if they want to keep it or make it permanent.

Mr. Fehrenbach said those are two separate issues, one is the renewal of the CUP and the other one is the structure.

Mr. Lamanna said renewing the CUP with a modification is to allow the gate in the back and the temporary structure for a period of two years and if it all goes as we expect the temporary structure will go away and we won't have to revisit this at all so he will set it up so it is self-executing to the greatest extent as possible and we don't have to drag you folks back here unnecessarily.

Mr. Gutoskey said just one more question out of curiosity, in reading through the motion when it was approved back in 2003 it talks about a Phase II.

Mr. Fehrenbach said yes, we are internally discussing options for Phase II, about a year ago Ms. Urdzik and himself met with Mr. Dietrich and Ms. Endres alerting them of the fact that this was on the horizon, we hadn't done much until just recently, we've engaged an architect, we are going through that right now so he can tell you this much that the Phase II will not look anything like the buildings that we had on the original plot plan so we know we will be coming back to you to have a look at it, we are not building anymore apartment buildings, we may build a few homes and we are seriously considering a memory care building which there is a very great need of so more to come on that but we know that since it deviates from the original master plan that was submitted when the development agreement was produced and our CUP was granted, we know that we have to come back in and we will be coming in and reaching out to you in short order as soon as we get our plans to the point where we can seriously talk about them. He said we need to know whether it is workable and affordable and be able to deliver the service that we need to do before we bring it to you so we have a lot of work to do before we bring it in.

Mr. Gutoskey thanked Mr. Fehrenbach.

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

Motion BZA 2020-29 – 16575 Franklin Street (South Franklin Circle)

Mr. Lamanna moved to renew the existing conditional use permit for the Judson Retirement Community for a period of five years from the date that the board's decision on this application becomes final.

1. In addition the board will also modify that conditional use certificate to allow the installation of an automated gate at the rear of the property to control access to the property off of Rocker Street. That gate will have a system for allowing access to emergency vehicles.
2. The applicant also, on the Franklin Street entrance, can install a temporary guard house in accordance with the plans that have been submitted for the purposes of allowing a location to monitor the ingress of people during the current situation with the COVID-19 pandemic. That modification will be for a period of two years. If the applicant subsequently determines that they want to make this guard house a permanent installation that will require a separate modification at the time the applicant decides to do that if they so decide.
3. The gate is not subject to this limitation and can remain or not remain as the applicant determines.

Based on the following findings of fact:

1. There have been no issues with respect to the operation of the conditional use.
2. They seem to be in compliance with all of the requirements and therefore that is the reason for granting the conditional use for a full period of five years.
3. The board modified the changes to the conditional use permit with respect to the gate and the guardhouse and are reasonable and necessary under the current circumstances, they have no adverse effects and are not inconsistent with any of the requirements previously imposed.
4. This conditional use is under the general requirements with respect to conditional uses so they can't create any adverse impacts on any adjacent properties.

Mr. Lewis seconded the motion.

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

Since there was no further testimony, the public hearing was closed at 8:57 P.M.

Respectfully submitted,

Brent Barr, Alternate  
Michael Corcoran  
Ted DeWater  
Ian Friedman, Alternate  
Joseph Gutoskey  
Michael Lamanna, Chairman  
Todd Lewis, Vice Chairman

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

Date: October 15, 2020

AUDIO RECORDING ON FILE

BZA PH 9/17/2020

-23-

Bainbridge Township, Ohio  
Board of Zoning Appeals  
September 17, 2020

The regular meeting of the Bainbridge Township Board of Zoning Appeals was called to order at 8:57 P.M. by Mr. Michael Lamanna, Chairman. Members present via Zoom were Mr. Ted DeWater; Mr. Michael Corcoran; Mr. Ian Friedman, Alternate; Mr. Joseph Gutoskey and Mr. Todd Lewis. Ms. Karen Endres, Zoning Inspector was present. Mr. Jeffrey Markley, Bainbridge Township Trustee was present to monitor and host the Zoom meeting.

MINUTES

The board discussed the motion for BZA 2020-20 at 8284 E. Washington Street (The Crooked Pecker Brewery) on August 20, 2020 regarding food trucks and was in agreement to modify the motion as follows:

Mr. Lamanna moved to adopt the minutes of the August 20, 2020 meeting with the following modification to the motion for application BZA 2020-20 – 8284 E. Washington Street (The Crooked Pecker Brewery) with respect to food trucks.

The applicant will comply with the then applicable zoning ordinance requirements with respect to food trucks.

Mr. Lewis seconded the motion.

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

APPLICATIONS FOR NEXT MONTH

Application 2020-30 by Easy Sign/Timber Trails HOA Scott Mackenzie for property at Timber Trail and Chillicothe Road

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

Application 2020-31 by Fellowship Bible Church for property at 16391 Chillicothe Road

The applicant is requesting a review and renewal request of an existing conditional use. The property is located in a R-5A District.

Application 2020-32 by Pizzeria DiLauro, LLC for property at 17800 Chillicothe Road

The applicant is requesting a conditional use permit with area variance(s) for the purpose of adding an outside patio and a mobile food truck in the parking lot. 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 15, 2020 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 9:42 P.M.

Respectfully submitted,

Brent Barr, Alternate  
Michael Corcoran  
Ted DeWater  
Ian Friedman, Alternate  
Joseph Gutoskey  
Michael Lamanna, Chairman  
Todd Lewis, Vice Chairman

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

Date: October 15, 2020