

Bainbridge Township, Ohio
Board of Zoning Appeals
September 18, 2008

Pursuant to notice by publication and certified mail, the public hearing was called to order at 7:40 P.M. by Mr. Michael Lamanna, Chairman. Members present were Mr. Todd Lewis, Mr. Mark Murphy, Mr. Mark Olivier and Ms. Lorrie Sass

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

The following matters were then heard:

Application 2008-17 by Highland Construction for Ian & Shari Roche for property at 7070 Bramshill Circle - Continuance

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

The zoning inspector's letter dated August 21, 2008 was read and it was noted that this application is a continuance from the August 21, 2008 meeting.

Mr. Allen Smith and Ms. Nora Smith from Highland Construction were present to represent this application.

Mr. Smith testified that they did not know at the time they started construction that they needed a variance and somehow it slipped through the cracks. He said they subsequently started construction on the pool and they are almost done with it and were finally notified and that is where they are at right now.

Ms. Sass said she sees that there was an electrical permit obtained from the building department and she confirmed that all of the board members have received a copy of that and the board has to treat this as though it is before it was built, the question is still one of practical difficulty and that is what entitles someone to an area variance and asked the applicants to explain their practical difficulty.

Mr. Smith said it is the site because of the ravine and referred to the GIS aerial photo. He said it drops off and is difficult to get a pool in and all of the trees would have had to come down and he referred to the location of the road. He said they looked at the site in the green area which was level and still buffered by trees and it was a better area for utilities and the cost would have been twice as much, it would not have been as good a place so that is why they put it there and the yard would have had to been built up. He said they did not get notified of the fact they needed a variance until later on.

Mr. Michael Joyce, Zoning Inspector testified that he wanted to go over the history of this. He said on June 17th the application was made for the zoning certificate and within the 30 day period, they were never notified that they were turned down because they had not even gone through it yet. He said Mr. Shane Wrench, Assistant Zoning Inspector did a drive-by and noticed that construction started on the 24th which is seven days after the application was made and that is when we contacted them and told them they need a variance which they applied for on the 27th which is ten days after the primary application was made so he does not know how and why construction got started because they were never notified that they needed a variance because we probably hadn't finished the review yet and then they went to the building department and the building department issued the green building card which says building permit. He said he did contact the building department after the fact and they said that is pretty typical for them, it was issued as an electrical permit only, but nowhere does it say that and if he had gotten that, he would have assumed they had clearance, it doesn't say electrical only.

Mr. Lamanna said the permit is only as good as the application.

Mr. Joyce said they did this by mail and they never had a chance to talk and neither side asked a question, so there was no chance to straighten out any miscommunication.

Ms. Smith testified this was sent to the homeowner and not given to us until the last zoning meeting but it is from the 20th.

Ms. Sass asked Mr. Joyce if it was fair to say that the application for the original zoning certificate never got a chance to work its way through the process because construction had begun.

Mr. Joyce said yes, absolutely and added that he has 30 days to get them completed, they try to do them much faster than that but they had never finished the application and on the 24th, Mr. Wrench had noticed that it had already begun and that is why they were never notified of the need for the variance, they started construction apparently assuming they had full approval. He added that most of the time the building department will not issue a building permit unless they either have a letter of exemption from the township or an approval from the township and the difference is with an electrical only, they don't look at the pool at all and issued it. He said the building department told him from now on, they will write exactly what the permit is for and they also offered to if he would write them a letter to issue no plumbing or electrical permits without a letter of exemption from Bainbridge. He said originally he thought it might be a little over-kill but since this happened, we have had three other instances so he does believe he is going to write a letter to the building department asking them to issue no permits without a letter of exemption from Bainbridge so this sort of thing won't happen again.

Mr. Lamanna asked Mr. Joyce if he knew how many permits they issue per week.

Mr. Joyce said he does not, not for Bainbridge, they said there were quite a few, it adds a step but eliminates this kind of problem.

Mr. Lamanna said he was just wondering how much work the zoning department will be going to get into and referred to a time he had to replace a meter box on his house and he had to get an electrical permit and you don't want to end up with a troop of people coming in with all kinds of things unless there are not that many.

Mr. Joyce said even a water heater requires a plumbing permit now.

Mr. Olivier asked if there would be a filing fee.

Mr. Lamanna said no it would just require a letter of exemption to be covered.

The board discussed zoning exemptions such as water heaters etc.

Mr. Joyce explained how the process would work.

The board discussed building permits versus zoning permits.

Mr. Joyce said it is not at all unusual to require a zoning permit and not a building permit.

Ms. Sass said they applied for the zoning permit on the same day the contract was signed but before the application for the zoning permit could work its way through the system, generating either approval or denial they got the building permit for the electrical and began construction and seven days after they began construction, Mr. Wrench did a drive-by and construction was already underway so the application for the zoning permit never worked its way through the process and they ended up requesting a variance. She said she will go back to the test the board has to consider and her big problem is she does not care it is after the fact because you can't come in before this board and claim that it is already in so that is her difficulty because if that is the fact then anybody here can build and say oh well, I know I did not follow the rules but it is already in so let me have the variance and said that is her problem. She said that is why she focuses on practical difficulties, about the lay of the land or how substantial the variance is.

Mr. Olivier asked about the contours of the rear yard.

The board discussed the rear yard setbacks.

Mr. Smith suggested adopting a ten day waiting period so that you can't start construction for 15 days from the date of the zoning application.

Mr. Joyce referred to the contour lines and said there is a very steady drop-off over a period of 48' and it drops 10'. He said there is a very fast drop-off and that is his problem.

Mr. Murphy asked for a dimension from the deck to the rear line.

Mr. Joyce said straight up is 62'. He noted on the GIS aerial the green space that is owned by the association.

The board noted that this property is next to the City of Solon property line.

Mr. Murphy asked if there was anyone in attendance from Solon or the neighborhood.

Mr. Steve Lesko testified that he is here for a different issue and said they could not have built a pool back there.

The board discussed the location of the pool.

Mr. Lesko asked if the board is concerned that the pool is within 90' of the common space.

Mr. Joyce said what they are concerned about is the resolution is written to be lot line specific, it does not matter who owns the other property, the setback is 90' from the rear lot line and explained that all accessory structures are held to the 90' setback. He added that the side yard is not the issue and they can't have a pool without a variance.

Mr. Lesko asked how far off they are.

Mr. Joyce explained that the pool itself and the walkway around the pool are encroaching into the 90' setback.

Mr. Lewis explained to the applicant that if they are coming into a community and they don't have intimate knowledge of all of the rules then make a stop and engage our zoning inspectors who are here to help guide us.

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

Motion BZA 2008-17 – 7070 Bramshill Circle

Mr. Lamanna made a motion to grant the applicant the following variance for the purpose of maintaining a pool and surrounding walkway.

1. A variance from the minimum required rear yard setback of 90' to 61.5' for a variance of 28.5'.

Based on the following findings of fact:

1. A practical difficulty exists because the applicant has a culdesac lot of very unusual shape.
2. The ground falls off rapidly behind the house and after due consideration of the topography, this is the only practical place for this pool to be located.
3. It is not inconsistent with the surrounding development.
4. There is no buildable property located behind it so it will not have an adverse effect on any neighbors or upon the green space that is located behind this property that is the common space for this association.

Mr. Lewis seconded the motion.

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

Application 2008-18 by Robert Hradek for Maureen Mason for property at 17532 Merry Oaks Trail - Continuance

The applicant is requesting area variances for the purpose of replacing a deck. The property is located in a R-3A District.

The zoning inspector's letter dated August 21, 2008 was read and it is noted that this is a continuance from the August 21, 2008 meeting.

Mr. Robert Hradek was present to represent this application.

Mr. Hradek testified that Ms. Mason gave him a copy of everything.

Mr. Lewis said the board has a survey and photos and Ms. Mason's narrative as well. He said with the potential of that next door property changing hands, the survey was required to head off any kind of misunderstanding.

Ms. Sass said she agrees.

The board reviewed the survey presented.

Ms. Sass said the side yard setback for Tanglewood is 15'.

Mr. Joyce confirmed that the side yard setback is 15'.

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

Motion BZA 2008-18 – 17532 Merry Oaks Trail

Mr. Lamanna made a motion to grant the applicant the following variance for the purpose of maintaining a deck replacement.

1. A variance from the minimum required 15' setback to 7.5'.

Based on the following findings of fact:

1. There was an existing deck in this location which replaced a deck that actually further encroached into the side yard unbeknownst to the property owner.
2. Upon completion of an accurate survey it was determined that the distance to the side yard is 7.5'.
3. The board also notes that there are existing dense plantings between the deck and the neighboring property so that it will not have any adverse effect upon that neighboring property.

Mr. Lewis seconded the motion.

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

Application 2008-19 by James D. Evans, Architect for Dunkin' Donuts for property at 16780 Chillicothe Road - Continuance

The applicant is requesting area variances for the purpose of constructing a new Dunkin' Donuts. The property is located in a CB District.

The zoning inspector's letter dated August 21, 2008 was read and it was noted that this is a continuance from the August 21, 2008 meeting.

Ms. Elizabeth Eaken and Mr. James Evans of James D. Evans Architects and Mr. Ken Blum were present to represent Dunkin' Donuts.

Ms. Eaken testified that based on the conversation at the last meeting and when we talked at the meeting we talked about creating one in-lane and one two-lane, left turn right turn out lane to the south and what they forgot is there is an existing power pole and fire hydrant there so what they came up with is one curb cut and we pulled it as far south as we could with one in-lane and two out. She said they also added to the site plan the landscaped buffer the board asked for along the south property line. She said she went through and provided the board with a lot of information regarding neighboring property lot coverage. She said the existing lot coverage that is there now is 73.4%, the proposed lot coverage is 67.9% so they will be reducing the lot coverage by 5.5%. She said the current building footprint on-site is about 5,325 sq. ft. and the proposed is 4,903 sq. ft. so they are decreasing that. She said looking at the neighboring lot coverage is, CVS has 65%, Park View Federal has 56%, Shell has 71% and Washington Square has 76% and their proposed is 67% or 68% so they are right in there with some of the neighboring lot coverage. She said as far as the front yard setback, it is a 100' requirement because it is a state route and the current setback is at 65', the proposed setback is nearly 72' and that was figured at the most extreme corner, the whole building is not at that setback, it is just the corner. She said the neighboring setbacks are: CVS is at 106', Parkview Federal is at 18', Shell is at 77' and we are pretty close to the 77'. She said they did contact ODOT but they don't have any plans in the near future to do anything and the gentleman she spoke with said it has to be at least on their schedule a minimum of five years and at this point it is not even an idea in their head.

Mr. Lamanna asked Ms. Eaken if she asked ODOT about the specific curb cuts they are planning whether they had any traffic flow issues.

Ms. Eaken said she told them they are looking at this property and she asked them about the left turn lane and if they were planning widening the road or adjusting the left hand turn lane. She said as they mentioned before from last month, they are providing from an aesthetic standpoint more green space at Chillicothe Road than is there now.

Mr. Murphy asked if the green space will be planted with seed.

Ms. Eaken replied yes and there is a lot of pavement there now.

Mr. Murphy asked if it will be curb and plow protected with a curb around that or are you just going to plow snow over it because we have seen lawns just disappear with the snow and salt.

Mr. James Evans testified that said they have not moved forward with the civil engineering yet and with how they drain the site will determine if there will be curbing or not and he would say typically they probably would at the street to protect it from truck and vehicular traffic.

Mr. Ken Blum testified that it will be needed to protect the sign too.

Mr. Lamanna said something has to be done or someone will take out the fire hydrant there.

Mr. Murphy said without the curbing it just becomes the same parking lot that Nash's had which was plowed from one end to the other so if you are going to have some grass there and if there was any thoughts of doing more than just grass with a little bit of landscaping.

Ms. Eaken said they have not gone that far yet in their discussions.

Mr. Lamanna said if you are going to have this kind of setback, the board is going to want to see something done with these areas like a mounding with some plantings on it with screened parking like CVS has with some plantings on top so you are not looking right into the parking lot.

Ms. Eaken said okay and added that the current side building setback to the north is 16' and the proposed is 45' and the parking is 5'. She said regarding the south property line next to residential and it will be landscaped, the current setback is 21' to the house garage and it is 47' to the restaurant and for the proposed setback they are 31.8' and it goes up to 72.10'. She said regarding the rear yard setback, the current setback is 8' and the proposed is 64' to the building and 10' to the paving. She said in terms of asking for the variance and they asked for several reasons, the ordinance is overly restrictive because it does not allow for a viable business or a viable building of enough size. She said they are increasing the overall lot coverage by 5.5% and they are right at or better than in terms of lot coverage with the adjacent properties. She said their front yard setback is very close to what is next door, they are just a little bit in front of it but it will look uniform, they are adding more green in the front and not to mention they are putting up a very nice looking building on the property as well.

Mr. Lewis referred to the site plan and asked Ms. Eaken to walk him through it. He said he is looking at the three parking spaces in the very front of the building and the cars are 18' – 22' long and they are going to back out of those spots. He asked how they are going to back out to get to the left turn or turn right lanes and how she sees them moving those cars around.

Ms. Eaken said she sees them coming out this way (she referred to the site plan).

Mr. Lewis said so you want them to back into the traffic coming around the corner blindly from the drive-up window.

Ms. Eaken said there is plenty of room.

Mr. Lewis asked if it is a big enough site there.

Ms. Eaken said it is all open.

Mr. Lewis said he sees the handi-cap space has been moved and he thinks that might help.

Mr. Olivier referred to the space where Mr. Lewis mentioned and said there is a site line and asked about that.

Ms. Eaken said it is a landscaped bed with daylilies.

Mr. Lewis asked if it will be a low profile.

Ms. Eaken said yes.

Mr. Lewis asked Ms. Eaken if she is okay that three cars could potentially be backing into two lanes of on-coming traffic around the corner.

Ms. Eaken said she hopes they won't be zipping around the corner.

Mr. Evans said certainly you don't mean all three cars at the same time.

Mr. Lewis said it is not just the guy pulling from the drive-up window he is thinking about because he is stopped and he is going to go from zero to whatever speed coming around that corner but the other patrons that are maybe parked on the other side of the property have gone in and gotten something and they are in the outer lane swinging around here and that traffic, he would suggest, moves a little bit quicker than the one that is stopped at the drive-up window.

Mr. Ken Blum said that he thinks you have the same risk with that in any parking situation and even on the other side where the main parking is, cars are going to be pulling out and the traffic will still be moving so every parking lot is going to have a certain amount of risk and this is a pretty wide area and given all of the site lines, they don't perceive it as a risky parking scheme.

Mr. Lewis asked, when cars come in, how the traffic will be directed to bear right.

Ms. Eaken explained that they will have some directional signage.

Mr. Lewis asked if that is on their application.

Mr. Evans asked if directional signage is not considered signage.

Mr. Lewis said no but he is trying to get understanding for approving the prints.

Mr. Evans said they will probably have a pavement marker too, an arrow.

Mr. Lewis said he did not know if signage would be used or a pavement marker.

Ms. Eaken said it could be a combination of both.

Mr. Lewis said you will have to have some way to define these three lanes and asked what they are going to do to define those to their patrons.

Mr. Evans said paint is good and that is about all they have usually.

Mr. Lamanna asked about the proposed menu board and if it is a talk-back with a speaker in it.

Ms. Eaken replied yes.

Mr. Joyce explained that the menu board is not defined in the resolution and would in fact in this case be another ground sign. He added that he will be talking to the zoning commission to correct that kind of situation but they have not met yet.

Mr. Lamanna said the issue is the 30 or 40 some odd feet from a residential district and the sign is pointing into the residential district so all of the chatter is directed right to the residential district. He asked if it is possible to move that to the back because it could become a matter of issue with people.

Ms. Eaken said she thinks Mr. Blum should speak to that more in terms of how this business works for them but she thinks that they like to have this visual with the window as opposed to the back of it.

Mr. Lamanna the whole thing could be turned around and flow the other way.

Mr. Lewis said regarding the McDonalds at Bainbridge, the menu board or ordering board with the speakers is at the rear of the building, there are two side windows one an optional pay window and one further down.

Mr. Lamanna said they are facing the residential district.

Mr. Lewis said it can be done.

Mr. Blum said he can speak for how Dunkin' Donuts works, he can't speak for how McDonalds works but they want their speakers out exactly 100' from the window and they want their window to be as close to the front of the building as possible and that is why this building is designed the way it is so speakers out at 100' gives way for five cars between speaker tower and the window and optimizes their performance as a business so the customers can queue up.

Mr. Lamanna said it does not optimize the enjoyment of the adjacent residential district.

Mr. Blum said the speaker is actually pointing into the corner of the lot, it is not pointing into the residential it is actually pointing into the deepest part of the lot.

Mr. Lamanna said sound travels.

Mr. Blum said it is actually in a pretty ideal place for the town.

Mr. Lamanna said the ideal place is toward the back so all the sound will be going back into the commercial district.

Ms. Sass asked how high the dumpster is.

Mr. Evans said typically the dumpster enclosure is 6' high.

Ms. Sass asked at what height is the speaker.

Mr. Blum said it is about 3-1/2'.

Ms. Eaken said the point about the dumpster is providing some sound buffer.

Ms. Sass said yes some barrier and asked what time it opens.

Mr. Blum said 5:00 A.M.

Mr. Lamanna said the board does not want to be hearing complaints from people that live over there and it happens, there have been things in other locations with drive-thrus near or next to residential areas and it becomes a big source of complaints with noise from the speaker because it carries. He added that it is not the people talking from their cars and he asks why there has to be a speaker at all because a lot of places just show what the order is, it comes up on a screen.

Ms. Eaken said if they don't understand the person, they can tell them.

Mr. Lamanna said that can be put on the screen too and added that this is just something that is an issue.

Mr. Murphy said he thinks the Bainbridge Police will be there if somebody complains about the sound because you are not allowed to disturb your neighbors beyond a certain considered reasonable time.

Mr. Lamanna said that is one of the things when you want a variance, it is considered but it may be able to be regulated.

The board revised the site plan and variances requested.

Mr. Olivier asked if the lot to the south does not have a residential house on it.

Mr. Evans said correct.

Mr. Joyce said there is a garage but it is a buildable lot though.

Mr. Olivier asked if the house will be 100' off of Rt. 306.

Mr. Joyce said yes.

The board discussed the traffic in the north bound lane, rush-hour traffic and the turning lane.

Mr. Evans said the turn lane starts in front of their property and you can turn into the site now.

Mr. Lamanna said yes, it is just when and how many cars and one bad thing is if you have people start into that left-hand turn lane and if you have two cars going in the turn lane and the first car stops to turn into Dunkin' Donuts the first car will be hit because he won't think the car is turning into Dunkin' Donuts, he is thinking he is going to be turning west on E. Washington Street.

Mr. Evans said they are also supposed to maintain a certain distance and we can't be the traffic police all of the time. He said he respects what Mr. Lamanna is saying but we cannot control people and how they are going to drive their automobiles.

Mr. Lamanna said no but the board can deal with the traffic issues and hazards that it might create and the board has to anticipate that people will not always be paying attention as well.

Mr. Evans said he just hopes the board is not trying to prohibit a left-hand turn northbound into our property.

Ms. Sass said she does not think the board can.

Mr. Olivier said if the utility pole and fire hydrant were not there, the drive could be pulled farther south.

Ms. Eaken said they are doing the best they can with what they have and she thinks they are improving the situation from what it is now where it is all open where people can go in and out and at least we will be directly people to the in and out lane.

Mr. Evans said we feel it is better in that sense, at least we have one curb cut where all the traffic is controlled instead of two separate ones like it was before and we really feel this is a pretty good compromise.

Mr. Lamanna said it is the rate of traffic that is the problem and what used to go in before was the number of cars were not at the peak times and were a lot smaller number than will be going in and out of there now.

Ms. Eaken said she thinks generally they are talking about the peak traffic will be in the morning and most of that traffic will be coming from the north down so it will be right turn in and right turn out which is ideal and that is why Dunkin' Donuts looked at this site, they looked for right in and right out.

Mr. Lamanna said that is also why if there is a no left turn there it would not be that big of a hardship.

Mr. Blum said he strongly disagrees with that, it would be a major hardship.

Mr. Lamanna said but if he kills two or three people in that intersection in the next five or ten year, he would not be real happy about that either.

Mr. Blum said it was a restaurant with people going in and out and you have a carwash next to it pulling out and going left and right out of that.

Mr. Lamanna said not many people come out of the carwash and turn left.

Mr. Blum said but they still can, can't they.

Mr. Evans said they have access to that southern ingress and egress from just the gas pumps so they will probably use it a lot because the other ones are right near the intersection and he certainly does not think they are making the site any worse and that is his opinion as a design professional. He said they definitely do want left turners northbound, absolutely, it is important to their business.

Ms. Sass said even if you could relocate that fire hydrant and utility pole, you could move the outbound drive and keep the in where it is but it would still be so tight.

Mr. Lamanna referred to the no left turn out of Heinens, you are not allowed to turn left there, you have to go down to the other end of the parking lot because it interferes with the intersection there so it certainly is not unprecedented.

Ms. Sass said you can from Washington Square.

Mr. Olivier said all of them have second alternatives and some people want to turn left out of Shell but they go right and turn around.

Mr. Evans said at least we are another property away from that intersection, we are a little bit further down and hopefully they have a little more room to maneuver and he understands the peak periods and maybe somebody coming out turning left will have to wait a little longer but by then they have already bought their coffee. He said typically when they develop a site, the boards they run into normally want the curb cuts to a minimum but here the compromise is made to try to have one way in.

Mr. Lamanna said this is a particularly very, very bad location and is probably one of the worst traffic flow situations in the township.

Mr. Evans said maybe most of our customers will figure that out and end up going right out eventually.

Mr. Lamanna said the people turning left out are going to have to sit there and wait and the concern he has is the people turning left in because if they get there and can't turn left in, it will back up the traffic down the hill.

Ms. Sass said the left outs are going to be complaining and the left ins are going to be complaining. She asked Mr. Evans if they had a traffic study.

Mr. Evans replied no.

Mr. Lamanna said traffic studies are too insensitive to measure a single business because they are looking at levels of service on the rate of traffic through an intersection.

Ms. Sass referred to the traffic that is heading south on Rt. 306 from Russell and said there is a lot of traffic.

Mr. Greg Fedele asked if they can back up the turning lane, the stripes and asked why that can't be done.

Mr. Lamanna swore in all persons who came in late to the meeting.

Mr. Blum stated that it is about 15,000 to 17,000 cars per day that pass this location.

Mr. Lewis asked if that is considering the weekends or Monday through Friday.

Mr. Blum said he did not know, it was just the average. He said his count actually came up less, it was not as robust.

The board reviewed the application, zoning inspector's letter and site plan.

Mr. Lamanna asked about the positioning of the dumpster enclosure and if it has to be next to the residential district and if it can be put back next to the CB district, for obvious reasons, loading and unloading, not to mention it is a concrete block structure.

Ms. Eaken explained the door location where the employees have access.

Mr. Lamanna said if they have to walk another 50' to a dumpster and asked if there is a reason it can't be put in the other area.

Mr. Blum asked if the board wants it on the other side.

Mr. Lamanna replied yes.

Mr. Murphy asked if it can be placed in the seeded area in the back right corner and it allows for traffic flow and lose a parking spot in the back right corner and add a space.

Mr. Evans said he did not think that would be the end of the world.

Mr. Blum said they could use a split face block, it would be a lot more attractive.

Ms. Eaken said and the trees will buffer it.

Mr. Lamanna said you are just encroaching further and further to the setback, the building is 31' back and now you want to put another structure only 21' back and he does not think it would be too popular with people to have a dumpster enclosure 20' from their property line especially when the trucks show up at 5:00 in the morning.

Mr. Blum said they don't do that.

Mr. Lewis said it could be moved behind the Shell station which still also serves the rear tenant which he presumes will be a shared dumpster.

Mr. Evans said they prefer to put it right in line with the driveway, it will be easier for the trucks.

Mr. Lamanna said you come you go, we live here and if people don't like this, we hear about it for the next ten years and added that he doesn't want to listen to it for the next ten years and he does not think anyone else here wants to either, so the board has to exercise a little foresight on what is going to create problems or not create problems.

Mr. Olivier said we also have the issue of another more frequented at more times of the day use going in there that can make this even worse from the standpoint of ingress and egress times of day as probably less intensive than another commercial use that could go in that space.

Mr. Lamanna said it is better off spread throughout the day.

Mr. Olivier referred to Nash's and said if it was open for lunch and open for dinner and if there was the volume of a very successful restaurant there but this traffic would be more in the morning and something has got to go in there at some point.

The board discussed placing a condition on this regarding the egress turning lane.

Ms. Eaken asked the board what they would use as a definition of a problem

Mr. Evans said would it be the number of accidents.

Mr. Lamanna said accidents and traffic back-up.

Ms. Eaken asked how that would be determined.

Ms. Sass said that might be the best approach to watching this.

Mr. Lamanna said unfortunately it is the only way to know for sure to see what happens, the board can allow the left hand turns now and revisit it in a year for example if we find out that everyday the traffic is backed up to the bottom of Rt. 306 with cars trying to turn left or if we have an accident a week with somebody getting rear-ended turning into it, then the board will have to reconsider what is going on. He said turning left out, nobody is blocking traffic but somebody could turn right and then turn around the other way, it is not a big deal.

Ms. Sass said she likes that approach the best and she thinks they have made significant attempts to work with the board and to address any of the concerns we have had and she agrees, it is a terrible lot, it is a terrible location but they have done the best they can with the situation they have.

Mr. Evans said it is a tough site and we have said that from day one.

Mr. Lamanna asked what the other business will be.

Mr. Blum said he does not expect it to be a restaurant.

Mr. Lamanna said the board will want your assurance or agreement that it will not be another restaurant because that really changes the calculus if there are two restaurants.

Mr. Blum said a daycare center would be great, a dry cleaning drop-off would be great for a complimentary business, professional offices, and a dentist would be great.

Mr. Lamanna said that would be good because there would not be as many people coming in and out.

Ms. Sass said she agrees.

The board discussed the possibility of selling pizza or subs because they would not be sold in the morning.

Mr. Evans said their big time is in the morning.

Mr. Murphy asked if the second business will have to come in and ask for variances.

Mr. Lamanna said not unless it is a conditional use business.

Ms. Sass said or if they want to do something that is going to change the dimensions.

Mr. Olivier asked if the board could put a stipulation on it that that business won't have business at the same time as Dunkin' Donuts and if that is a consideration.

Mr. Lamanna said whatever restrictions we put on it, they can always come back and request that it be removed such as putting in a pizza place that is 98% delivery, that would not be a concern, but if they want to put a Taco Bell in, that might be a different issue and the second business should be consistent with what the board was thinking in the first place.

Mr. Lewis asked about the architectural materials.

Mr. Olivier asked if there are color renderings.

Ms. Eaken said she brought one and the materials will be fiber cement board siding, a shingle roof with a brick chimney.

Mr. Evans said the color is brown.

Ms. Eaken said it will be real brick.

Mr. Evans said they are traditional moldings and we are trying to bring the Dunkin' brand into a more traditional structure.

Ms. Eaken said she forgot to bring the Dunkin' colors and said the color on the rendering is as true as they can get it on a plotter.

Mr. Evans said it is not offensive at all, the shingles are architectural dimensional shingles, they do have to get some of the branding elements in because that is part of the scheme and they try to work it into the architecture as a whole.

Mr. Lamanna asked if they have looked at the McDonalds around here and if they noticed that it does not have a lot of the typical McDonalds architectural features.

Ms. Eaken asked if the board recalls the small board she brought last time and this is their interpretation to represent a chimney.

Mr. Lamanna asked if there are any architectural features that can be added to the one side.

Mr. Evans said at the last meeting they talked about the landscaping and they talked about faux windows and something else to break it up, but it is the kitchen area and all of their equipment is there.

Mr. Lamanna said you couldn't put real windows in, he was thinking something to break up the large expanse on that side.

Ms. Eaken said it will be screened and if it was a highly visible elevation, they would do a lot to it but the owners want to spend their money on places that are going to be seen so that would be the other two primary elevations.

Ms. Sass said she is fine with it.

Mr. Evans said their awnings don't glow.

Mr. Olivier asked about lights.

Mr. Evans said the awning is lit from above, it is not internally lit and we think it is much more classy when it is lit from a source above the awning.

Mr. Murphy asked if the decorative wall sconces will be low voltage and turned off at night.

Mr. Evans said they don't want them to detract from their architecture so they will keep those minimal.

Mr. Blum said there will be a safety light over the back door for both our space and the tenant space because it has to be well lit for the safety of the employees.

Mr. Joyce asked what they consider well lit.

Mr. Evans said they will probably use 100 watt of metal halides.

Mr. Blum said it is not going to leak onto another property.

The board discussed the proposed lighting.

Mr. Evans said they will be covered full cut-off lights.

Ms. Eaken explained the location of the proposed lights.

Mr. Evans said they can do full cut-off luminaires and it will direct the light down on the sidewalk.

Ms. Eaken said the purpose is to keep it safe right there.

Mr. Lamanna said that is what people complain about, they see the light source even 1,000 ft. away but if you have it covered and shaded, no problem. He referred to Section 143.03 (g) of the zoning resolution regarding screening and landscaping next to a residential district that requires either a fence or a 4' density planting of shrubs and trees along the boundary line, a year round dense screen.

Ms. Eaken said the trees will be 12' and spread 5' – 6' apart which will be Junipers.

Mr. Evans said they go in at 5' high.

Mr. Lamanna said we have a variance for the first 70'.

Mr. Evans said it is a tight site and asked the board to please work with them.

Mr. Lamanna said you can bring it down as close as you can feasibly get.

Ms. Eaken asked do you want to be blocking the visual at the road with people pulling in and out.

Mr. Lamanna said you definitely want to stay back at least enough so if you have a couple of cars sitting there so they can see and probably stay back 30' – 40' from the road.

Mr. Evans said they can add one or two more in the spring.

Mr. Lamanna said he wants to make sure everything is covered otherwise if the board doesn't act on it, you may have this on your plan and if you don't ask to change it, we don't want applications to have to come back because we did not deal with it and you will be held up while the board resolves this. He said the board wants to address everything that needs to be addressed.

Mr. Evans said he does not want to kill the deal for a couple of more trees.

Mr. Lamanna said he just wants it clear what is going to be done and what is going to be granted a variance.

The board discussed the proposed plantings.

Mr. Evans said on their final site plan they will have a lighting plan and they always use cut-off luminaires for their site lighting also.

Mr. Lewis said he thinks this was to try to tweak it to see if everything was feasible for your client and that is the overall direction we are trying to get established today.

Mr. Evans said they were discussing lighting and we will use cut-off luminaires. He said they are mixing brick and siding and they won't have any colors that are offensive other than their awnings and they are not hiding that fact, they have to have a little splash of color.

Ms. Eaken said she thinks it is important to note that overall portions of the building with the orange is not overly done like perhaps the green across the street.

The board said that was before their time.

Mr. Evans said when they saw that building when they left here that night, that is not going to be the case with this building, it is a coffeehouse concept, it has got to have that little bit of appeal to it and they are not trying to make this thing blast out.

Mr. Murphy asked about the dining area and how many seats there will be.

Ms. Eaken said there will be 23 to 25 seats.

The board discussed the variances requested and the potential impact on the neighbors.

Mr. Murphy asked about the hours of operation.

Mr. Blum said he expects they will close between 10:00 P.M. and midnight.

Mr. Lewis asked the applicants to talk about their proposed signs.

Ms. Eaken said the sign they are deleting is still on the drawings but they are removing the text from the awning but they will still have the awning. She said on the north elevation, each tenant will have a sign above their door. She referred to the rendering and said there would be a Dunkin' Donuts sign here and that is Sign A which will be approved with no variance as well as the sign over this tenant's door which is called Sign F and that would also be approved with no variance. She explained that on the front of the building which faces the road, we have given them each a sign, the Dunkin' Donuts sign, it is higher than the 15' permitted but if you look at the placement, it is appropriate.

Mr. Evans said it would be disproportionate for sure.

Ms. Eaken said for the height of the chimney and its proportion it is where it should be.

Mr. Lewis asked how that sign is.

Ms. Eaken said it is 20' to the top and that is Sign C. She referred to the rendering and said the tenant over here will have a sign on their portion of the building identifying them to the road and is indicated as Sign G.

Mr. Lewis said that is 13' to the top.

Ms. Eaken said yes and then in addition to those four signs they have the coffee cup and she said she wants to explain that according to the zoning ordinance that the square footage of the sign is determined by a rectangular box surrounding the outermost portions and it comes out to be 42 sq. ft. but she wants to point out is that this is an outline of a coffee cup so behind it is really the brick of the building, it is not covering the brick, the actual area of the sign that is covering the brick is 12 sq. ft. so at least understand that it is not a big 42 sq. ft. sign.

Ms. Sass said that is kind of ugly and asked if they have to have it.

Ms. Eaken said she thinks it looks really nice and it makes it look like a coffeehouse.

Ms. Sass said maybe it is just the size.

Ms. Eaken said these are standard signs that you can buy from the supplier and this is the smallest of the three, they have three sizes of coffee cups.

Ms. Sass said she sees there is 51 and 97.

Ms. Eaken said they chose the smallest one and they do think the bigger ones are not appropriate for this site and we think it looks right when you look at the overall building, it does not look over signed to her, it looks appropriate and she thinks the tenants will want their signage facing the road and they need an identity over their door.

Mr. Lamanna said you have a ground sign.

Ms. Eaken said they are slightly over the square footage on the ground sign and there is 40 sq. ft. allowable.

Mr. Lamanna said 32.8 sq. ft. actually.

Ms. Sass asked to go back to the coffee cup Sign B. She said it was noted that it is actually on the brick and asked what it is.

Mr. Lewis asked if it is a decal.

Mr. Blum said it is not a decal it has a texture to it, it is probably made out of some sort of PVC, it comes in three colors and this is the least offensive color and it adds dimension to the chimney and the whole thing is designed to have the coffee cup on it.

Mr. Lewis asked if it projects from the wall.

Mr. Blum said it is less than an inch thick.

Mr. Lewis asked if it is mounted to the wall.

Mr. Blum said it is drilled into the masonry with no gap.

Mr. Lewis asked about the color.

Mr. Blum said it is beige.

Mr. Murphy said the color is Yosemite Sam.

Ms. Eaken said yes and this will be an internally illuminated sign, there will not be a light above it and they are not on the official drawings. She added that this is a brick reveal.

Mr. Evans explained that the coffee cup is part of their logo and who they are.

Ms. Eaken said when the building goes up, it doesn't look right until the coffee cup goes on it and it is a big brick chimney and it was made for the coffee cup to go on it.

Mr. Evans said it is an identity for their coffee and they are really pushing their coffee hard and if you have tasted it, then you know why. He said everybody thought it was about the donuts and it is very much about their coffee so that is the new part of their branding that is important to them.

Ms. Eaken said she attended a training seminar and they talk a lot about their coffee being their identity and eventually they would like to have this coffee cup without having the DD being on it to be their identity like the red bulls eye for Target, they don't need the Target underneath anymore. They are using symbols instead of text to identify their businesses and that is the direction Dunkin' Donuts is trying to do as well.

Mr. Joyce said that is why McDonalds lost their arches because they identified so much with it that all across the country, it was considered signage and they were made to take it down because it was excessive signage.

Mr. Evans said yes by the definition of your sign code it is signage but it is artwork too.

Ms. Sass said when they get to that point that the coffee cup that is identified as Dunkin' Donuts do all of these other things come down and we just have that logo and everybody identifies it as such.

Mr. Blum said he looks forward to the day that the coffee cup gets the same recognition as DM.

Mr. Lamanna said we have to get somewhere a lot closer to compliance with the signage, this is a small lot and we have got more signs on here than we have got on businesses five times this size.

Ms. Sass said she agrees.

Mr. Lamanna said there is no reason the ground sign cannot be less than 40 sq. ft. and even that is giving you a break. He said this is a narrow lot and with a giant ground sign on it, it looks a little bit disproportionate so we need to get the ground sign size down to something close to what is permitted, somewhere around 32 sq. ft. to 40 sq. ft. He said typically they allow two wall signs maximum and we already have this issue of the menu board and since technically it will be another wall sign or ground sign.

Mr. Evans asked about the wall signs on CVS.

Ms. Eaken said she thinks they have seven and showed the board photos of them. She explained the locations of the signs per the photos and added that she did not even look around the back side of the building but they have at least seven.

Mr. Lewis said the two signs on the front and the two signs on the back or on the side on the proposed application are all illuminated and asked if these (CVS) are all illuminated too or just the CVS sign.

The board discussed the proposed signage and the CVS signage.

Mr. Lamanna said the CVS signs are small and descriptive signs. He said the One Hour Photo is different.

Mr. Evans asked why so.

Mr. Lamanna said it is not a principal business description sign plus they are pretty small.

Mr. Sass said they are still signs.

Mr. Lamanna said yes they are still signs.

Ms. Eaken asked when you look at the building do you think the signs look too big or too much according to the elevation.

Mr. Lamanna said the ground sign is too much and that is a big sign in the front.

Ms. Eaken said okay.

Mr. Lamanna said that is a big sign in the front.

Ms. Sass asked if that is the coffee cup or the illuminated logo.

Mr. Lamanna said together.

Mr. Lewis said and then you are going to have four lines of red illuminated LED messages going on out there.

Ms. Eaken said it will be a message that will stay up there for a few hours but it will not be moving, or flashing.

Ms. Sass said she thinks the size of the signage as presented is a little much, they look a little big and since you have the clearly identifiable orange awning, she does not know that they need or think they need all of the additional signs to identify what it is.

Mr. Blum said the Dunkin' Donuts is the smallest sign they make.

Ms. Sass asked if the sign would in fact be smaller.

Mr. Blum said the sign would be smaller.

The board discussed the 12" sign.

Mr. Blum said the other thing that the brand will allow them to do and they are very strict is, they will allow us to put the coffee cup on without the two Ds so if that is something that changes the board's perception, we can take the Ds off.

Ms. Sass said that would be better.

Mr. Blum said that is something the brand will let us do but they won't move forward without a coffee cup, he said they might let us but we don't want to jump through a whole lot of hoops and that is one their core site approvals and that is a major issue.

Ms. Sass said and that is the one that is showing on there.

Mr. Blum said that is definitely the small one.

Mr. Lamanna asked how big the coffee cup is.

Ms. Eaken said it is 9' high by 4' 8" wide and that is the box outline of it.

The board discussed removing the orange DDs from the coffee cup and the color.

Mr. Evans said he knows the board has to act on hardships and again the site dictates kind of how they had to orient the building, deeper than wider to Chillicothe so when they did that the hardship is now, how do we get the tenant in here and give them half the frontage because the frontage is so deep.

Mr. Lamanna said normally your total signage is 60 sq. ft. based on frontage of the building but the board will probably give you some relief on that but don't count on 150 sq. ft. so you are going to have to start scaling back.

Mr. Evans said it doesn't work out because of the depth and we are squeezing the building.

Mr. Lamanna said he does not know why you need a sign for the tenant out front when you have a ground sign.

Mr. Blum said he would sacrifice his tenant's second sign if he can keep the ground sign as it is.

Mr. Lamanna said the ground sign is going down to under 40 sq. ft. because it is way over-sized.

Mr. Blum said what happens is then the tenant sign goes away on the ground sign.

Ms. Sass said it is a trade-off.

Mr. Evans said he is just trying to present the hardship because that is what the board acts on and the hardship is we had to push all of our square footage back on the site so we are just asking for a little more signage.

Ms. Sass said unfortunately it is not just a little more signage. She said the board is willing to give you a little bit more signage because of that.

Mr. Lamanna said the board will give you some relief but we have people coming in here all of the time and they want 1-1/2 and 2 and 3 times the amount of signage and they have been told no, sorry and in some cases it is a question of how much signage do you really need to be visible, you have a ground sign that is right there for people driving by and that is what they are going to see is the ground sign primarily.

Ms. Sass said keep in mind, we have already talked about the fact that traffic is going to be so backed up here they are going to have ample opportunity to see the signs that are there.

Mr. Lamanna said that is what people will see is the ground sign and the recognizable building so you have got your ground sign and the signs you have over the entrances don't really need to be that big, the sign on the side can be a fairly small sign so people know which door to walk in, it is not a sign to attract people driving by on the road because they are probably not going to see it anyway.

Mr. Blum said they are putting on the smallest sign they make.

Ms. Eaken said if you look at the sheet, it shows the smallest sign.

Mr. Evans said it might meet your code but looks horrible.

Ms. Eaken said they need the Dunkin' on the top.

Mr. Murphy said to get rid of the coffee cup.

Ms. Sass said they said that is not negotiable, only the DD.

The board discussed the signage requested.

Ms. Sass said if you are going to take down the size of the ground sign, they said the tenant on the ground sign is going to go away, if you keep the coffee cup but get rid of it on the ground sign then you have got more available space for the tenant sign.

Mr. Blum said it is a different style sign and it is the smallest sign they make so it is not as if he can chop off the coffee cup. He said it won't look as nice.

Ms. Sass recommended they tweak the site plan to meet a lot of the accommodations and do some tweaking on the site and the question is are you willing to go and tweak the signs a little more and come back and hope that the third time is a charm and see what you can get with your corporate folks as far as allowances and reductions. She said that is the applicant's call unless the two are so inextricably linked.

Mr. Blum said the challenge they have is not so much them coming back another month, the challenge they have is with Mr. Nash and stringing him along with not being able to work with the site to move forward, we are using up another month of his life and his ability to market this site to somebody else so he is just trying to be fair to Mr. Nash.

Ms. Sass said that is the board's question, if we go ahead with the consideration of the site.

Mr. Lamanna said the board would give you variances on the site and the building and the only thing left is working out the details of the signs, he does not know if the applicant is willing go forward at that point or not.

Mr. Blum said he can't move forward without everything.

Ms. Sass said that is your call if you are so inextricably linked that you can't do one without the other.

Mr. Blum said in terms of signage, we can take the Ds off the coffee cup and if you want us to remove the top illuminated sign then he would ask to keep the Ds on the coffee cup.

Ms. Sass said she thinks that is fair.

Mr. Lewis said he could deal with that because the ground sign up front is illuminated but we still have to talk about scaling that back to an agreeable level but it gives you the front illuminated Dunkin' Donuts sign that you want. He said you will get it right out front at the street, they will look at your building and they are going to see your coffee cup, you could put 42 more signs on the face of the building and it is not going to make it even further identifiable as Dunkin' Donuts.

Mr. Blum said he will make the brand happy with the coffee cup and he can make the argument of giving up the other sign.

Mr. Lewis said if you drop the other front of the building tenant sign because you have got it on the ground tenant sign, both the two extra signs off the front of the building, we have made a lot of progress here and let's work on establishing the size of the ground sign so if after deleting the two front building illuminated signs what do we have to do on the ground sign to also put enough there so it is fair to a tenant.

Ms. Eaken said she thinks the way it is now would be enough to be fair to a tenant.

Mr. Evans said and we agree to that.

Mr. Lewis said the one feature you have on here is the Dunkin' Donuts is one that is a pre-fab sign for the company.

Mr. Blum said it is a standard stock sign.

Mr. Lewis said one way we can diminish the height of this is to shorten the 18" on the pedestal that it sits on.

Mr. Blum said he would not go any lower than 6".

Mr. Lewis said okay when you get snow there and the length could be reduced from 10' 6" and that would not impact the Dunkin' Donuts pre-fab portion of it.

Mr. Blum said the only thing is because we can't flash and scroll 10' is what we need because we only get 5" letters so if he can't scroll, the smaller LED sign is not effective and he just does not want a sign where he can only put a small message on.

Ms. Sass said but you have a window panel within that and asked if he can shrink it.

Mr. Blum said he can shrink the tenant's panel but.

Ms. Sass asked if the sign can come in on the sides.

Mr. Blum said the way the sign is made, they manufacture these a certain way.

Ms. Sass said that is what she means, can it be cut off.

Mr. Blum said they are made like the old televisions where you only have a 21" diagonal but the casing is too big.

Mr. Evans said we are removing this sign that is very important to us and we are removing this sign (he referred to the rendering) and asked can we not agree.

Mr. Lewis said the board was looking how far off the right-of-way the ground sign is and in the face billboard if it is 6' off the curb it is going to look horrible regardless of how well you decorate it.

Ms. Eaken said it is 12' from the right-of-way and another 10' so it is 22'.

The board discussed the location of the proposed ground sign and the height of it.

Mr. Lamanna said the applicant has to figure out how to do that.

Ms. Sass suggested that the applicants take the time to discuss this between themselves so the board can continue with the rest of the applications and added that it is not the board's job to engineer your sign designs.

Ms. Eaken asked if the board wants them to get it done with 40 sq. ft. and remove the two tenant signs.

Mr. Lamanna said if we sit and try to engineer signs we will be spending hours and hours doing it so you have to figure out how to do it within the parameters the board is willing to grant so you have to figure out how to use your square footage. He asked about the awning sign over the drive-thru window.

Ms. Eaken said they removed it.

Mr. Lewis said that was sign B.

Mr. Lamanna told the applicants to think about it from that standpoint and added that the board is going to give some relief on the number of signs and said the board is willing to give at least 100 sq. ft. of signage based on the longer dimension. He explained the relief the board will be willing to grant based on the building.

Mr. Blum asked where they are with the total square footage.

Mr. Lamanna said you will have to go back and look at it.

This application was recessed at 10:00 P.M. in order for the representatives of Dunkin' Donuts to discuss their application and variances requested. This application will be concluded after the rest of the applications on the agenda are heard.

Application 2008-20 by Signs Ohio for Woodforest National Bank located inside Walmart for property at 7235 Market Place Drive

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

The zoning inspector's letter dated September 18, 2008 was read and photos of the site were submitted.

The applicant was not present.

The board discussed the fact that the sign is already up.

Mr. Michael Joyce, Zoning Inspector, testified that the applicant said they had to have the sign and paid the fine for installing the sign before the permit was issued. He said they put up the sign prior to being approved so the fee was doubled.

The board discussed the fact that since the applicant was not present, there was no evidence presented to the board.

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

Motion BZA-2008-20 – 7235 Market Place Drive (Woodforest National Bank)

Mr. Lamanna made a motion to deny this application because the applicant is not present and there is no evidence.

Mr. Lewis seconded the motion.

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

Application 2008-21 by Signature Sign Co. for Cowboy Restaurant for property at 8586 E. Washington Street

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

Mr. Kevin Goff of Signature Sign Company was present to represent this application.

Mr. Goff testified that the board should have a print of what he is proposing.

Mr. Lewis asked if Mr. Goff has authorization to speak on behalf of the property owner.

Mr. Goff replied yes.

Mr. Lamanna confirmed that a letter was submitted.

Mr. Murphy asked if they are taking the other sign off the front.

Mr. Goff said we are asking to keep it up and added the new sign will be to the far south of the building.

Mr. Lamanna said he thinks the old sign has got to go.

Mr. Olivier said this one is pretty consistent with what is up there.

Mr. Goff said there is one sign up there right now and it is to the right of the main entrance.

The board discussed the signage requested.

Mr. Goff submitted a photo of the neighbor who has two signs right next to each other, one like Cowboy's are proposing and then a back one.

Mr. Michael Joyce, Zoning Inspector, testified that there are five such signs already located in these buildings and he went back and checked three of them and could not find the fact that these signs are located over sidewalks, it was never brought to this board's attention.

Mr. Lewis said he does not recall ever seeing the Paddock sign come through here.

The board discussed the existing signs in the area.

Mr. Joyce said he only checked three of the signs and noted that they also have a horse statue in front of the saddlery which in its own right could be considered a sign.

Mr. Lamanna said he thought the jewelry store was here.

Mr. Olivier said Bella does have one.

Mr. Lamanna said he thought we addressed that.

Mr. Joyce said the board may have but the three he looked at was not.

Mr. Lamanna said he knows at least one of those he is pretty sure that the board looked at and it was a hanging sign. He said that provision was more designed for the signs that stick over the sidewalks.

Mr. Joyce said he agrees.

Mr. Lamanna said he seems to remember that at least in one of the applications the board discussed that issue that that violated that provision.

Mr. Joyce said he had not checked all five of the existing signs.

Mr. Olivier said it looks like there is a sign over the door or is that just a banner that says open.

Mr. Goff said yes, it is a temporary banner.

Mr. Olivier said there is an entrance sign.

Mr. Goff said yes and it is not illuminated, it is just a pin mount. He said he thinks the reason they want to keep the existing is because if you look at the whole front, the Cowboys that is existing is over their main door whereas this new sign we are proposing is actually to the far right that is not even a door that they use for entering and existing.

Mr. Olivier said that is where the band comes in.

Mr. Lamanna asked if the saddlery sign application was looked at.

Mr. Joyce said he does not recall.

The board discussed the sign requested and second wall signs.

Mr. Lewis said if you add a sign you should take away a sign and added to the far right there is an arch but the entrance is 50' or 80' down.

The board discussed the visibility of the new sign.

Mr. Olivier asked if it will be illuminated.

Mr. Goff said it is not going to be illuminated and there are going to be fixtures on the side.

The board discussed the banner over the door.

Mr. Goff said his company had nothing to do with it.

Mr. Lamanna said taking the banner down will be a condition of approving this.

Mr. Goff said there is an entrance sign over the door above the banner.

Mr. Lamanna said there should be no more than 8 sq. ft. over the door.

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

Motion BZA 2008-21 – 8586 E. Washington Street (Cowboy Restaurant)

Mr. Lamanna made a motion to grant the applicant the following variances for the purpose of installing an oval wall sign as shown on the submitted drawing of the application of approximately 5' x 10' to be located hanging in the marquee area.

1. A variance to allow this sign to project over the public sidewalk under Section 173.08 and to allow it to be under Section 173.11 (c) more than 18" in front of the building and 15' above the finished grade.
2. A variance to allow a second small Cowboy entrance sign not to exceed 8 sq. ft. over the entrance to the building.

With the following condition:

1. The applicant will remove the banner sign shown in the photos of this establishment that is not an approved sign.

Based on the following findings of fact:

1. Due to the architectural features of this strip mall, this is an appropriate location for the sign and the height is consistent with the architectural design of the area and does not present an unreasonable height difference especially as compared to certain other signs already in existence.
2. Because of the architectural features, the location over the sidewalk is consistent with the intent of the sign ordinance.
3. A variance for the second sign was granted because the actual entrance to the business is located some distance from the actual large sign and is necessary to direct people to the proper entrance location.

Ms. Sass seconded the motion.

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

Application 2008-22 by Hawksmoor Homeowner's Association (Greg Fedele) for property located at the front entrance of Hawksmoor Subdivision

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

The zoning inspector's letter dated September 18, 2008 was read and photos of the site were submitted.

Mr. Greg Fedele and Mr. Steve Lesko, homeowners in the association, were present to represent this application.

Mr. Fedele testified that they are requesting an area variance because the sign they proposing for the entrance to their subdivision is larger than allowed but they are putting this sign on a natural granite rock and the letters are really only 14" high and about 4' long.

Ms. Sass said but the rock is really big.

Mr. Lamanna said it is roughly 55 sq. ft.

Mr. Fedele said probably less than that because they talked to the landscaping company that is going to be putting it in and it will be half buried in the hill so it will actually be less than that but that was the complete size of the rock.

Mr. Steve Lesko testified that it will be buried into a footer.

Mr. Fedele said proportionately speaking it is not intrusive when you are driving down that hill, we are right at the edge of Solon as you come into Bainbridge and we actually had a roped off section that shows the dimensions of the sign in the front of the property and the variance is actually significantly less than the Canyon Woods sign that is further down Bainbridge Road that is already existing and ours is a natural rock not a manmade structure.

The board reviewed the application and the size of the proposed sign.

Mr. Michael Joyce, Zoning Inspector, explained the location of the riparian setback for this area and said the entire parcel is within the riparian setback so a variance from the riparian setback is needed as well as the size of the sign.

Mr. Fedele said they did not know there was a riparian issue as well.

Mr. Joyce said he discussed this with several people, Geauga Soil & Water said it was fine, the Geauga County Planning Commission said they would not consider that part of the road, but when he first talked with the applicant he had not thought of the riparian setback but he called someone and talked to them about. He said the whole property of 5.69 acres is in the riparian setback.

Mr. Lamanna asked if there is a setback issue.

Mr. Joyce said no.

Ms. Sass asked how this is going to be supported in the ground.

Mr. Fedele said with a concrete footer buried a foot below the frost line so that it doesn't sink.

Mr. Joyce asked if 45" of rock will be buried.

Mr. Lesko said the footer will be below grade but not 4' below.

Mr. Joyce said what is below will come off of the sign area.

The board discussed the rock and the writing on it.

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

Motion BZA 2008-22 – Hawksmoor Subdivision Sign

Mr. Lamanna made a motion to grant the applicant the following variances to construct a subdivision sign as shown on the submitted drawing.

1. A variance from the maximum size of 25 sq. ft. to as large as 55 sq. ft. for a variance of 30 sq. ft.
2. A variance for the structure to be located in the riparian area.

Based on the following findings of fact:

1. With respect to the size of the sign, it is actually a carved sign on a natural rock material.
2. The actual sign itself is well within the 25 sq. ft. limit so it is within the intent of the zoning signage regulations.
3. With respect to the riparian setback, it is a natural stone structure with a below grade foundation and where it is located should not adversely affect the riparian areas or pose a detriment to any flow through those areas.

Mr. Lewis seconded the motion.

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

Application 2008-23 by Dinallo & Wittrup Homes, Inc. for property located at the front entrance of Brighton Park Estates

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

Mr. Rick Dinallo was present to represent this application.

Mr. Dinallo testified there is a limited amount of property that is available for an entrance sign for the subdivision. He said the right-of-way at 30' at this point and behind the right-of-way at Chagrin River Road, it is a 14' x 40' area of which part of that is a headwall for a drainage area and it is a 14' x 40' area in which to put a sign. He said on some of the paperwork there should be a site plan which shows the 14' x 40' area and included in that paperwork is a letter from the Geauga County Engineering Department which agrees with his assessment since they were the body that he dealt with on what would be allowed and what he could use and in that area they not only have the 30' right-of-way setback, they have that additional 14' so the sign, being an entrance sign, that is the only location they have that is not in the right-of-way of either roadway and hopefully the board has the letter from Pete Seliskar confirming the location and this is what they are trying to do. He said he has gone back and forth with the planning department on actually designating that as an area to designate as a sign easement and one party in the planning department said let's not deal with that right now, they were on their way to the commission for an approval so they left it as just part of the right-of-way instead of giving an easement to the homeowner's association for a sign so there is not a dedicated easement for the sign to the homeowner's association but because it is part of the right-of-way, Geauga County was willing to say we could use that spot for our entrance sign. He said the sign is approximately 16 lineal feet long which includes the structure to hold the sign which the board should have a picture of and the far west part of the sign or the structure is at 4' 9" in height. He said at the rear not counting the cap on the rear column they are about 6' 4" or 6' 6" and it has the metal cap on top of that. He referred to the rendering of the sign and said this area from the ground up is 4' 9", and up to the metal cap is about 6' 4" to 6' 6" and the total is 8' on the end of the sign and again it will be 16' long so 80% of this wall is 4'9", a 3' section out of the 16 is the 8' height.

Mr. Lewis said and the 8' height is away from the street.

Mr. Dinallo said it is going east and it is angled in such a way that it has visibility from Chagrin River Road and they have angled it as much as they can without getting out of their box of 14' so it is visible. He said the other part of this area will be landscaped with some low vegetation and a couple of higher trees at this area once we get past the sign.

The board discussed the sign dimensions.

Mr. Dinallo said the sign is 2' 8" x 9' 4".

Mr. Richard Berris, next door neighbor asked if it isn't all of the sign. He said he thinks the sign should go back to where he has lots of property and meet the setbacks just behind his property. He referred to the site plan and showed the board where his property is and said this sign makes it look like his property is part of the development it is so close to his property and he really doesn't think much of it.

Mr. Dinallo submitted some photographs that were taken today.

Mr. Berris said whoever worked on the installation of the sign, buried the property pins.

Mr. Dinallo said they will put them back. He explained the photos and said this one is standing in the right-of-way of Brighton Park Boulevard facing north, this picture is the location of the sign, this picture is taking steps going down our street from the west side to the east side and this is what we are contending with on part of our 40' area is this headwall. He explained how it drops back down so you cannot move it any further into the neighborhood. He showed the board more pictures and said this is Mr. Berris' home, a picture standing almost at the intersection trying to take a photograph of what you would see from Mr. Berris' garage and driveway. He said this next picture is head-on to where the sign would be going another ten feet down the road and this is going at the end of the 40' box. He said these are two more pictures a little closer up trying to get a picture of Mr. Berris' house from the sign location. He said this is facing south going to the other neighbor's standing where the sign is trying to get a picture of his home and this is a picture of across the street where the county property is. He said he did try to photograph to see just what Mr. Berris would see from his garage.

Mr. Olivier asked where the western edge is.

Mr. Dinallo said it is beyond the telephone pole and showed the board on the site plan and he is not sure how deep the property is before the next building site but it certainly is not an entrance so people driving down, he does not have the dimension from the right-of-way back to the first building lot. He said if you look at the location from the street it is right beyond the right-of-way of Chagrin River Road.

Mr. Michael Joyce, Zoning Inspector, testified that from the center of the right-of-way is 30' so subtract 30' so it is about 180' outside the road right-of-way from the intersection.

Mr. Dinallo said by the time anybody gets to that point, they are long gone, it is bad enough they don't have any directional going south on Chagrin River Road, the only sign anybody will see is obviously going north up Chagrin River Road to see the sign, they don't have any property on the south side so they can only have one sign.

Mr. Lamanna asked if this will be a dedicated street.

Mr. Dinallo said yes a dedicated road and that is another reason that the county was so particular about not allowing him to get it any closer to your right-of-way, their right-of-way on our street.

Mr. Joyce showed the board photos and said so they can get a good idea of where the sign is being located with respect to the riparian setback and added that the road is wider than normal and it is physically located in the road right-of-way.

Mr. Lamanna said because the road is wider than normal doesn't make the right-of-way necessarily wider than normal.

Mr. Dinallo said the right-of-way is 30' and we have an extra 14' beyond that 30' right-of-way.

Mr. Lamanna asked if the 14' area is actually beyond what would be dedicated.

Mr. Joyce said it is within the road right-of-way.

Mr. Lamanna said when this street is dedicated that 14' x 40' is not going to be within the dedicated right-of-way or is it.

Mr. Joyce said yes it will be.

Mr. Olivier asked who owns it.

Mr. Joyce said the engineer's letter speaks to that and it looks like a separate parcel but it is not, it is part of the road right-of-way.

Mr. Dinallo said that is correct and what Mr. Seliskar was saying is it only requires 30' and we have 44' or so and 14' of that is on a diagonal so maybe it will come out to 12' but we have 42' of width on that side of the road that is why he allowed us to use that parcel for our sign and again it goes back to what could of, should of, would of at the planning commission and he should have stuck to his guns before we went to the meeting that he needed that as a dedicated easement but not to upset the apple cart he let it go.

Mr. Lamanna asked if there is something that shows what the dedicated area is or what area will be dedicated.

Mr. Dinallo said the whole area will be dedicated as a right-of-way.

Mr. Lamanna asked if this whole area will be dedicated.

Mr. Dinallo said there is no choice.

The board discussed the parcel and the dimensions of it.

Mr. Lamanna said this sign is actually in the dedicated right-of-way.

Mr. Joyce said it is, they need 30' to maintain the road and this goes back 42' on a straight line, 44' on a diagonal and they wrote the letter saying they wouldn't mind the sign being there but it is within the road right-of-way.

Ms. Sass said they don't mind the sign being there.

Mr. Lamanna said Mr. Dinallo can't apply for this.

Mr. Joyce said he doesn't own the property.

Mr. Lamanna said the county will actually have to give Mr. Dinallo a letter saying he is authorized to come in on the county's behalf and seek a variance to put this sign in here because it is their property.

Ms. Sass said that is right.

The board discussed the letter from the county engineer which says it is fine to put the sign there.

Ms. Sass said you are allowing an obstruction to be placed within the road right-of-way when the rest of the law says thou shall not allow an obstruction in the road right-of-way.

Mr. Olivier referred to the dam in Tanglewood that has the concrete embankment that comes right to the edge of the right-of-way and they were not notified of it by the engineer's office until it was finished.

Mr. Lamanna said the whole sign is being built on the county's property.

Mr. Dinallo said he is sure Mr. Pete Seliskar did not take it upon himself to give him absolution before he went to the engineer's office or his boss to discuss this whole situation, they were given this same map weeks before this meeting and a good week and one-half later, the letter was written, he is sure they looked through and discussed what all of the ramifications were before they issued a letter on their letterhead.

Mr. Lamanna said they don't have the legal authority to do that.

Mr. Dinallo asked who does.

Mr. Lamanna said probably the county commissioners.

Ms. Sass read from the letter from Mr. Seliskar and said it doesn't say they authorize this and assume any liability associated with the allowance of this sign.

Mr. Dinallo said then they would have written a letter saying no, they do not want any sign there and they disallow the sign to go there.

Mr. Olivier said technically it is a wider right-of-way than normal.

Ms. Sass said she does not think this letter says anything.

Mr. Lamanna said in this case a third party doesn't even own the property adjacent to this piece and wants to come in and build something on the county's right-of-way so they should have deeded the piece of property back to you or carved it out of the dedication.

The board discussed the parcel and the size of it.

Mr. Dinallo asked if this can be tabled until he can talk to the county.

Mr. Berris said part of this sign is too close to his property to start with so it doesn't meet the zoning.

Mr. Lamanna said it should be deeded back to Mr. Dinallo otherwise this will be opening all kinds of things. He said they could still give you a piece of property and not diminish their right-of-way.

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

Motion BZA 2008-23 – Entrance to Brighton Park Estates

Mr. Lamanna made a motion to table this application until the next regularly scheduled meeting to be held October 16, 2008.

Ms. Sass seconded the motion.

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

Application 2008-24 by Sandra Hood for property at 8125 Bainbrook Drive

The applicant is requesting area variance(s) for the purpose of installing a deck, patio and water feature. The property is located in a R-3A District.

The zoning inspector's letter dated September 18, 2008 was read and photos of the site were submitted.

Ms. Sandra Hood and Mr. Ken Lewis were present to represent this application.

Ms. Hood asked the board members if they had a copy of the drawings.

The board members responded by saying yes.

Ms. Hood testified that she has a hot tub that she wants to put in the backyard and she can't go off to either side of the house so she needs to go in the back and her side yard in the back drops off dramatically so she would like to build a small deck that goes around the hot tub so she could walk to the hot tub and have it be deck level and then she was going to put a small patio in and the water feature will actually be about one-half the size of what it is in the drawing, it is just going to come around the back of the existing deck. She said the whole front yard is all tiered rock so there is no frontage to work with also so if you look at that picture coming off the existing patio that is directly half way into the right, that is the existing deck and that would go to the right, right in that area. She said she is not sure where the drop-off is between the existing deck and the back of the house but it drops off dramatically, it is a slope that is maybe 20' from the property edge to the deck.

Mr. Olivier asked if there is a lot coverage issue.

Ms. Hood said yes, she was told it is 22% which she was not aware of because she just purchased the home and this would bring it up to 24%.

Mr. Michael Joyce, Zoning Inspector, testified that the current lot coverage is 27.3% and with the addition it will be 31.3%.

The board reviewed the application and variances requested.

Mr. Olivier asked if the houses behind sit below this property.

Ms. Hood said they sit slightly below.

Mr. Joyce explained the location of the common area.

Mr. Lewis said this lot is already over the lot coverage and there is no existing variance for that and now the board is looking at going further.

Ms. Sass said that is how she is thinking.

Mr. Joyce said that is correct but he does not know how it got to be there.

Mr. Olivier asked if this is a pattern with this subdivision and if it is consistent.

Mr. Lamanna asked about the house footprint.

Mr. Joyce said it is 2,135 sq. ft. of living space and that excludes the garage area.

Mr. Lamanna asked if it is all one floor.

Ms. Hood said there is a walk-out basement and it is furnished.

Mr. Joyce said basements are not considered living space.

Mr. Lamanna said the house is not extraordinarily big to start with.

Ms. Hood explained where the deck is and how it drops off.

Mr. Lamanna asked if there is a small deck on there now and how big it is.

Ms. Hood replied yes.

Mr. Ken Lewis testified that he believes it is 18' to 19'.

Ms. Hood said the most important for her is just the little deck area to go out to the hot tub, just to tier down to make it more level, the stone patio is just a little place to walk out from there to make it aesthetically pleasing.

Mr. Ken Lewis said it will be made of natural stone.

Ms. Hood said she is not looking to take over her whole back yard and there is no level spot on the property to pad the hot tub.

Mr. Joyce displayed the GIS aerial views of the surrounding neighbors for the board to review.

The board reviewed the property lines and setbacks of the neighboring houses.

Ms. Hood said the property line is at the edge of her driveway and she has maybe 20' coming into her driveway.

Mr. Lamanna said the fact that there is a side entrance garage, it adds a lot of extra driveway and you end up with 500 – 600 extra square feet of driveway.

Mr. Joyce said the water feature by our definition is lot coverage.

Mr. Lamanna said most of those end up being lined with a rubber vinyl liner which is an impervious surface.

Ms. Hood explained that this will be a small little tier, not a giant koi pond.

Mr. Murphy asked if there are any neighbors in attendance.

Mr. Lamanna said it does not sound unreasonable with the size of the house and the fact that it is a small lot.

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

Motion BZA 2008-24 – 8125 Bainbrook Drive

Mr. Lamanna made a motion to grant the applicant the following area variance with respect to the percentage lot coverage for the purpose of maintaining the existing house and driveway and deck as well as adding 920 sq. ft. of additional lot coverage.

1. A variance to a total lot coverage of 31.33% for a variance of 11.23% of the 20% lot coverage permitted in this subdivision.

Based on the following findings of fact:

1. A practical difficulty exists due to the small size of the lot in this area of .52 acres.
2. The additional lot coverage is reasonable considering the existing size of the house and the nature of the adjacent development within this subdivision.

Mr. Lewis seconded the motion.

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

Application 2008-25 by John L. Burge (Holsman Sign Services) for Premier/KFC Restaurant Mgmt. for property at 7217 Aurora Road

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

The zoning inspector's letter dated September 18, 2008 was read and photos the site were submitted.

Mr. John Burge of Holsman Sign Services was present to represent this application.

Mr. John Burge showed a photo to the board of what the KFC restaurant had and they have been approved to put up "Kentucky Fried Chicken" which is to replace the KFC logo on most of their stores and they would like to take that logo, just the three letters and put it over the back by the drive-thru and the reason for that is to find this drive-thru is a little bit difficult here because there is only one directional here and here, he referred to the photo, as you can see by the landscaping and when you get past that sign, there is really no definition that this is KFC to get into their drive-thru from the back.

Mr. Lamanna asked how big the new sign is.

Mr. Burge said it is 2' letters and it is about a 16' sign.

Mr. Lamanna said that is 32 sq. ft.

Mr. Burge said the sign they are moving around to the back is 12 sq. ft.

Mr. Lamanna asked what the maximum signage allowed is.

Mr. Michael Joyce, Zoning Inspector, testified that the front sign met the requirement and was approved.

Mr. Lamanna asked what it is when 12 sq. ft. is added on and asked what the frontage is.

Mr. Burge said he does not know and it is a separate elevation.

Mr. Lamanna said the code allows 1.15 times the frontage and the frontage is not much bigger than the whole length of the sign and asked if the sign is within the zoning.

Mr. Burge said it is possible it got off scale on that and added that the frontage is 30' and it is obviously not to scale when it was super-imposed for the photo.

Mr. Lamanna said so it is actually smaller than that.

Mr. Burge replied yes.

Mr. Joyce said 1.15 is allowed for the entire parcel and that is what he is going to talk to the zoning commission about because he would have to calculate every sign in the entire area and no doubt it would exceed that.

Mr. Lamanna said it has been applied on a tenant by tenant basis in the past.

The board calculated the existing sign with the addition of the three letter logo.

Mr. Lewis said it would be 9.5 sq. ft. over.

Mr. Lamanna said given the small amount of signage allowed and they have a driveway in the back they are adding a pretty small sign and it is an advantage to have a small name.

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

Motion BZA 2008-25 – 7217 Aurora Road (KFC)

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

1. A variance for a second wall sign in the rear of 12 sq. ft. for a total signage of 44 sq. ft.

Based on the following findings of fact:

1. The applicant has an entrance on the rear of the building and it is also assessable from another major parking lot within the shopping center.
2. The total amount of signage is a small increase but it is not inconsistent with that allowed and through a small frontage area, a need for second sign is a reasonable extension of the amount of signage allowed.

Ms. Sass seconded the motion.

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

Application 2008-19 by James D. Evans, Architect for Dunkin' Donuts for property at 16780 Chillicothe Road - Continuance

The applicant is requesting area variances for the purpose of constructing a new Dunkin' Donuts. The property is located in a CB District.

The above referenced application was reconvened.

Ms. Eaken testified that they will make their ground sign 40 sq. ft. and they will eliminate Sign C which is the Dunkin' Donuts on the chimney portion so if they add up the square footage on the rest of their signage, they are under. She said Sign G which will be 12 sq. ft. will be left for the tenant and mostly like the tenant will not be on the ground sign, Sign A for Dunkin' Donuts is 14 sq. ft., Sign F will be 22 sq. ft. and then the coffee cup will be 12 sq. ft. and the area of the sign is brick.

Ms. Sass said the "DD" comes back because the top Dunkin' Donuts was taken off.

Ms. Eaken said yes it includes the "DD" in the square footage of the sign.

Mr. Olivier asked if the coffee cup will move up.

Mr. Evans said no but they might do another brick reveal to give some architectural flavor.

Mr. Lewis asked if they are not going to hang four lamps.

Mr. Evans said there is no reason to.

Ms. Eaken said the coffee cup will be lit from the ground.

The board reviewed the signage requested which is:

Sign A = 14 sq. ft. (over entrance on the north side)

Sign B is eliminated.

Sign C is eliminated.

Sign D = 42 sq. ft. (coffee cup)

Sign E = 40 sq. ft. (ground)

Sign F = 22 sq. ft. (sign above the tenant – entrance)

Sign G = 12 sq. ft. (tenant sign on the front)

The board discussed the proposed menu board.

Mr. Murphy said it is 6' long and 5' high.

Mr. Lamanna said plus those wings.

Mr. Blum explained the menu board.

The board discussed the total signage requested.

Mr. Murphy asked if there are enough parking spaces.

Mr. Joyce said he thinks they have several too many.

Mr. Lewis said some will be used for a future tenant.

Mr. Blum said this is the first time he has heard of a menu board being counted for signage. He said all of the marketing is done in bulk, it is all standard.

Ms. Eaken said you have to consider the location of the menu board being back and that it faces away and in addition to that so it is not an impact.

Mr. Murphy asked if the lights can be turned off at night when closed inside the menu board.

Mr. Blum said yes it is turned off at night.

Mr. Murphy said that corner glows so anything we can do to cut off the light will be good.

Mr. Lewis said we are at 180 sq. ft. for the signage.

Ms. Eaken said she thought they were at 160 sq. ft. but she forgot about the wings on the menu sign.

The board discussed the menu board.

Mr. Lamanna asked how bright the light is in the menu board.

Mr. Blum said it is not very bright because there are fluorescent tubes in it.

Ms. Sass asked what the outboard slats are.

Mr. Blum explained they are for certain items that are optional.

Mr. Lewis asked if the menu board is going to be relocated or stay as on the print.

Mr. Lamanna said they will leave it there but there is going to be a requirement that it will be operating in such a way as to not disturb people in the residential area.

Mr. Lewis said turn the volume down.

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

Motion BZA 2008-19 – 16780 Chillicothe Road (Dunkin' Donuts)

Mr. Lamanna made a motion to grant the applicant the following variances for the purposes of constructing a Dunkin' Donuts and a yet unnamed tenant building as shown on the plans dated September 11, 2008 as submitted by the applicant with the following conditions, modifications and exceptions.

1. The menu board will be operated in a volume adjusted in such a way as the sound from that will not disturb people in the residential areas.
2. The dumpster enclosure will be moved to the northwest corner of the property from its current location.
3. The line of Juniper trees will be extended as close as possible to the neck where the driveway has its closest approach to the adjacent residential property and a variance will be granted to the requirements to continue that line of trees to the front of the property. There will be some landscaping and berming in the seeded area at the front of the property.
4. The lighting will be done with full cut-off luminaires to avoid any spillover of lighting into the residential areas.

Motion BZA 2008-19 – 16780 Chillicothe Road (Dunkin' Donuts) - Continued

5. There will be no left turn from northbound Rt. 306 into the location except that the board will suspend this limitation for a period of one year at which time the board will revisit the actual operation of the premises to determine whether or not the board will permanently remove that limitation.
6. The applicant has agreed that the tenant will not be another restaurant type of business without obtaining further approval from this board.
7. The applicant will provide curbing for the entrance so as to clearly demark the seeded areas from pavement areas.

Based on the following findings of fact:

1. A practical difficulty exists primarily owing to the small lot size and the need to have a building of this size to practically support the operation of a business at this location and that the price of the property and development costs are reasonable in light of the location.
2. The board also finds that the conditions imposed are necessary in order to permit the granting of these variances to make the development consistent with other developments in the CB area and to prevent adverse impacts upon the neighboring residential district and to prevent adverse impacts on neighboring commercial properties and to prevent an adverse impact on the delivery of government services.

Variances

1. With respect to specific variances, the maximum lot coverage is granted a variance to 68.4% from 40% for a variance of 28%.
2. The front building line is granted a variance from 100' from the road right-of-way to 71.75' for a variance of 28.25'.
3. A variance is granted from the side yard requirement on the north side from 20' to 5' and the south side from 40' to 2'.
4. With respect to the setback of the building from the residential district a variance from 100' to 31' for a variance of 69'.
5. With respect to the rear yard a variance from 50' to 10' for a variance of 40'.

Signage

Mr. Lamanna made a motion to grant the following with respect to signs:

1. 14 sq. ft. north elevation wall sign over the entrance of Dunkin' Donuts.
2. 42 sq. ft. coffee cup logo sign on the bottom of the chimney feature.
3. 40 sq. ft. ground sign.
4. 22 sq. ft. sign over the tenant entrance.
5. 12 sq. ft. (a sign on the front of the building for the tenant)
6. 50 sq. ft. menu board sign

The following variances are granted:

1. A variance for four wall signs from the allowed two walls signs, one for each business.
2. A variance for the total square footage from approximately 60 sq. ft. based on the frontage of the building to 180 sq. ft. total.

Based on the following findings of fact:

1. Because of the two-sided nature of this building and the long skinny lot, the board is allowing two signs per tenant because of the need to have information on both the front and side.
2. The board is granting a variance to the total overall signage based on the fact that it is a very narrow building but long and the longer would have allowed more signage.
3. The board is also including a logo of 42 sq. ft. which is mainly an outline logo so its actual effect is much smaller than that.
4. In addition, the board has included a menu board of 50 sq. ft. which is although technically a sign not specifically identified or covered within the sign ordinance and because of its location, the board is not counting it for the purposes of looking at the overall total signage.
5. The board believes that the additional signage allowed is reasonable in terms of the nature and use of the building and the location and is not inconsistent with other businesses in the area.

Mr. Lewis seconded the motion.

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

Since there was no further testimony, the public hearing was closed at 11:40 P.M.

Respectfully submitted,

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

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

Date: October 16, 2008

AUDIO RECORDING ON FILE

BZA PH 9/18/2008

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Bainbridge Township, Ohio
Board of Zoning Appeals
September 18, 2008

The regular meeting of the Bainbridge Township Board of Zoning Appeals was called to order at 11:40 P.M. by Mr. Michael Lamanna, Chairman. Members present were Mr. Todd Lewis, Mr. Mark Murphy, Mr. Mark Olivier and Ms. Lorrie Sass.

MINUTES

Mr. Lamanna made a motion to adopt the minutes dated August 21, 2008 as written.

Ms. Sass seconded the motion.

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

Applications for October 16, 2008

The Bainbridge Township Board of Zoning Appeals set a public hearing on the above applications for October 16, 2008 at 7:30 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.

Application 2008-11 by Vocon (Michael DeMarco) for Key Bank for property at 8481 E. Washington Street - Continuance

The applicant is requesting area variances for the purpose of constructing a new Key Bank branch bank. The property is located in a CB District.

Application 2008-23 by Dinallo & Wittrup Homes, Inc. for property located at the front entrance of Brighton Park Estates - Continuance

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

Application 2008-26 by Matthew E. Brett for the Village of South Russell for property at 7860 E. Washington Street

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

Application 2008-27 by Mitchell D. Bowlus for property at 17596 Stockton Lane

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

Application 2008-28 by Reed Gilbert for property at 7774 Bainbridge Road

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

Application 2008-29 by Debra L. Simmons for property at 7386 Chagrin Road

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

Application 2008-30 by Laura and Mark Kikel for property at 16347 (231) S. Franklin Street

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

Since there was no further business, the meeting was adjourned at 11:59 P.M.

Respectfully submitted,

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

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

Date: October 16, 2008