

Bainbridge Township, Ohio
Board of Zoning Appeals
September 19, 2019

Pursuant to notice by publication and ordinary mail, the public hearing was called to order at 7:00 P.M. by Mr. Todd Lewis, Vice Chairman. Members present were Mr. Brent Barr, Alternate; Mr. Michael Corcoran; Mr. Ted DeWater and Mr. Joseph Gutoskey. Mr. Michael Lamanna was absent. Ms. Karen Endres, Zoning Inspector was present.

Mr. Lewis welcomed everyone to the regular meeting of the Bainbridge Township Board of Zoning Appeals, explained the public hearing process and swore in all those who intended to testify. He let the record reflect that everyone had been duly sworn in.

Application 2019-27 by Maria Savransky for Kids Club Property, Inc. for property at 16700 Hilltop Park Place - Continuance

The applicant is requesting a substitution of a non-conforming use with area variance(s) for the purpose of constructing an addition to the daycare facility. The property is located in a LIR District.

Secretary's note: This application was continued to the regularly scheduled meeting to be held November 21, 2019 at the request of the applicant.

Application 2019-28 by David A. Jackson & Michael T. Skolaris dba: JackAris, LLC for property at 8327 E. Washington Street

The applicants are requesting a review and renewal of an existing conditional use permit. The property is located in CB District.

Mr. David Jackson, owner and Mr. Ben Hocevar, general manager were present to represent this application.

Mr. Lewis noted that the applicants are here for their five year conditional use permit renewal.

Mr. Jackson testified that he is one of the owners and Mr. Hocevar is the general manager so thank you and we are here for the permit renewal.

Mr. Lewis asked if there have been any changes in the format of what they are doing for the business up there.

Mr. Jackson said negative.

Mr. Lewis asked Ms. Endres if there have been any complaints on the property or what they are using it for.

Ms. Karen Endres, Zoning Inspector testified that there have been no complaints.

Mr. Lewis said the board has a couple of gentle reminders having to do with temporary signs.

Mr. Jackson said okay.

Mr. Lewis said that is not good and they certainly cannot exist in any of the road right-of-ways and also outside storage is not permitted which was a condition on your previous conditional use permit so he doesn't know if there is any existing outdoor storage going on.

Ms. Endres said she did not have a chance to go look but on the aerials here it looks like there is a little something from back in 2018.

Mr. Jackson said those are used chemical barrels so they do get rid of them, they recycle them, the customers take them or the manufacturer will pick them up but honestly it was probably a bad month or something, that may have been during the winter when they pile up.

Mr. Hocesvar asked if they are talking about the white barrels.

Mr. Jackson said yes.

Mr. Lewis asked if there is a place for them to stage those indoors.

Mr. Jackson said yes, they can do that.

Mr. Lewis said so maybe that is the trade-off that gets everybody happy.

Mr. Jackson said yes, absolutely, happy to do it.

Mr. Gutoskey asked if there is anybody in the audience that has anything to say or has any questions about this application.

Mr. DeWater asked if the LED sign is in compliance.

Ms. Endres said yes.

Mr. Lewis asked if there is a temporary kiosk set at the end of your driveway from time to time for people paying or checking in.

Mr. Jackson said it is not a kiosk, it is not temporary, there is a manufactured hut for the wintertime so as cars come in you are greeted at the hut so we can really process the flow.

Mr. Lewis said he was wondering if that was there when the board granted the previous conditional use permit or it was a new element you added.

Mr. Jackson said it was really his partner and that was added probably the second year but he is pretty sure he did talk to Ms. Endres relative to the ordinances surrounding it.

Ms. Endres said she doesn't remember having a conversation relative to another structure.

Mr. Jackson said okay.

Mr. Lewis said that needs to be addressed and had your business wanted to add that element the right thing to do would have been to come in and work with the zoning inspector, present the plan on it, get the building permit then it may or may not have been kicked to the Board of Zoning Appeals while we maybe would have done an addendum to your conditional use permit so we will deal with that with our motion but please don't build stuff without a permit.

Mr. Gutoskey said this is in the industrial park zoning, right, so it is not a problem with lot coverage and not a problem with setbacks.

Ms. Endres said no but this is a 2018 aerial, where is it on here.

Mr. Jackson referred to the aerial and said it is right there, it is a pre-manufactured, beautiful looking shed on a slab and just when it is really busy if we can greet the customers here it relieves the flow going and gets the traffic off of East Knowles. He said we have done a great business and we have donated to tons of local charities, we've hired dozens of Kenston High School kids.

Mr. Lewis said you have employed about one-third of the kids who have graduated.

Mr. Jackson referred to the aerial again and said it is right there by the tree.

Ms. Endres said there are rear yard setbacks, there is not lot coverage but there would be rear setbacks.

Mr. Gutoskey asked if they need a variance.

Ms. Endres said she doesn't know.

Mr. Hocevar testified that he knows they had it surveyed prior to putting it in.

Mr. Jackson said it was his partner's project and he said he checked with the township and it is okay with where it is at, but he would have to double check with him, he is in North Carolina.

Mr. Lewis said even with lot coverage there are side guidelines so he thinks what Ms. Endres was implying was that we don't know the dimensions on where this is located. He said the board could do the conditional use renewal but he thinks we are going to have to put something in there that is going to require a site plan for that and he thinks the best thing to do is that if you get a site plan for that in, when we do a motion, our minutes are not approved until the next month when we meet, if you can provide that maybe we can pursue an amendment to the motion so that 30 days from now and final approval, the board has accommodated that and everything about your property stays clean. He said you are a great part of our community and it is nice what you all do.

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

Motion BZA 2019-28 – 8327 E. Washington Street (Carwash)

Mr. Lewis moved to renew the conditional use permit for five years.

Based on the following findings of fact:

1. It has been a long standing business that has had pre-existing conditional use permits.
2. There has been no change in the nature of the business and there are no existing complaints or previous complaints in the last five years registered with our zoning department.

With the following conditions:

1. Temporary signs are not permitted and signage can never be in the right-of-way.
2. Outdoor storage is not permitted and the applicant has agreed that they will make an effort to take their temporary containers and store them indoors until such time their supplier picks them up.
3. There is an attendant station that is present on the property that has appeared during the previous five year conditional use that the board was not aware of. The applicant has agreed to provide a site plan with dimensions to the zoning inspector in the next two to three weeks so that before this board meets in one month to have this finalized we can pursue an addendum with the accuracy of dimensions.

Mr. Gutoskey seconded the motion.

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

Secretary's note: The board reviewed the new survey/site plan for the carwash regarding the placement of the shed/hut and was in agreement to amend the aforementioned motion at the October 17, 2019 meeting.

Mr. Lewis moved to amend application 2019-28 with regards to the attendant station to grant an area variance for that as it is located nearly on the lot line and as noted and drawn on the site plan that was submitted dated October 9, 2019 by Schwartz Land Surveying Inc.

1. *The dimensions of the attendant station are approximately 8' x 10'.*
2. *The board grants a variance from the required 20' side yard setback to .5'.*

Based on the following findings of fact:

1. *The reason for granting this variance is there is a practical difficulty because of an effort for them to bring their customers up and not stack them out on the street while they receive them to line them up for their carwash.*
2. *This was the only location that was safe and served the business as well.*

Mr. Gutoskey seconded the motion.

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

Application 2019-29 by Mathew Cohen for property at 7372 Ober Lane

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

Mr. Mathew Cohen was present to represent this application.

Mr. Lewis stated that it appears that this shed has already been built. He said before we get into its placement and lot overage he gathers you (Mr. Cohen) are the owner of the property and that you put the shed up.

Mr. Cohen testified by saying yes.

Mr. Lewis asked when that happened.

Mr. Cohen said he believes it was June, this summer.

Mr. Lewis said it begs the question that when you add a structure on your property whether you are conforming to the zoning code with setbacks, lot coverage, usually it still requires a building permit.

Mr. Cohen said yes.

Mr. Lewis said even if it is a pre-built, even if it is on a sled-base without a foundation and you can grab a backhoe and drag it around, he is trying to understand why those didn't happen.

Mr. Cohen said my apologies to the board, he didn't realize, he thought that it was a temporary structure so it didn't have footers, it never crossed his mind that it would require a permit, if he was thinking about a garage, he definitely would have approached the permitting from the zoning department for it but he just considered it a temporary structure.

Mr. Lewis said our zoning code refers to that as an accessory structure whether it is on a foundation or on a sled base.

Mr. Cohen said my apologies.

Mr. Lewis said you have an unusually shaped lot.

Mr. Cohen said he does and that was part of the problem, if you look at it the east side of the lot it is essentially unbuildable because it is on pretty much of a hill. He said behind the house he has limited space between the adjacent parcel and then he has a deck in the back so there are really few places he could put a shed.

Mr. Gutoskey said plus the lot is wider than it is deep.

Mr. Lewis said it is not a very deep lot so even if you are doing something behind your house we would still be in the same dilemma. He asked if the property is on well and septic.

Mr. Cohen replied yes.

Mr. Lewis asked where the leach fields are for the septic.

Mr. Cohen said in the front.

Mr. Lewis said where it is selected to be now our zoning calls for a 100' setback in the front, this is at 72'.

Mr. Cohen said yes.

Mr. Lewis said the great news is it is no closer than your house is.

Mr. Gutoskey asked Ms. Endres about the setback of the house.

Ms. Karen Endres, Zoning Inspector testified that it is roughly 69' to 70'.

Mr. Lewis said it is no closer than where your house is so you have a pre-existing front line but we would need to deal with that 72' as a variance element so now let's talk about where it sits on the side yard setback, are you at 35' versus 50'.

Mr. Cohen said he put it as close as he could to the driveway to keep it away from the property line.

Mr. Lewis said you are right, one side of your property is pretty much not buildable because of the elevations and the topography. He said if you put it behind the house that has certainly some access and convenience elements but even there your house is closer than 90' or close to it anyway on the rear setback.

Mr. Cohen said he also wanted to do a garage at some point as well.

Mr. Gutoskey said if you are going to do a garage, see Ms. Endres first.

Mr. Cohen said he has her email.

Mr. Lewis said the size is 200 sq. ft. so we are okay on that.

Mr. Gutoskey said the height is okay. He asked if there is anyone in the audience that would like to speak on this application.

Mrs. Louise Foster of 7340 Ober Lane testified by stating the following: "My name is Louise Foster and I live next door to Mr. Cohen at 7340 Ober Lane. We have lived at this residence for 45 years. My east property line is the one that the shed is near. Our garages face each other so I couldn't miss it when a shed was suddenly in place. It was positioned directly opposite to the opening to his garage. To me, this gives the appearance of being an extension of his house and being prominently in the front yard. I have noted that in past practices in the area – sheds are discreetly positioned behind the house – not in line with the house."

Mrs. Foster continued by saying “I have no problem with it being close to my side line – more so with its front prominence as opposed to being behind the house. I am not pleased with this placement, but in an effort to be neighborly, I am NOT requesting that the shed be moved. I do not want to be responsible for the expense and trouble of Mr. Matt Cohen moving it. That decision obviously belongs to the Zoning Board, but I do hope that you take into consideration my decision not to object and to do what is best for the Stoneridge subdivision. Thank you.” She asked if the board had any questions for her.

Mr. Gutoskey said on the ReaLink map that shows that it looks like there is another shed in the back there.

Mr. Cohen said they are working through that.

Mr. Barr asked Mrs. Foster if that is her shed.

Mrs. Foster said yes, it has been there since 1979.

Mr. Lewis said his question would be while you work through it, which is wonderful, good neighbors make for a good life.

Mrs. Foster said it does, we have to live next to each other.

Mr. Lewis said that shed, regardless of when it was built, we are looking at both Geauga County and Cuyahoga County plats of where things are and it is appearing that that is definitely straddling the lot line because where Cuyahoga comes in and meets Geauga, they don't exactly line up on both sides of the street which is pretty common particularly when you get on a curve on a road etc. so the question that he has is it is great that you are being neighborly about it but what we have is we have an accessory structure that is partly on somebody else's property and we probably need a survey of your property so we can determine, as this has come to our attention, that we very possibly and probably have a structure that is not 100% built on your property.

Ms. Endres said Ms. Kate Jacobs is here representing the Auditor's Office and she has indicated nothing really different than we already knew but ReaLink is not surveyor accurate.

Mr. Gutoskey said we know that.

Ms. Kate Jacobs testified that in the Stoneridge Subdivision, this one in particular we know is off, the lines are 10', 15' to 20' off on the version you have to the west. She said they are working on readjusting it, they corrected that specific line so now that property line will be in a place that is more accurate, but if you are going to bring a civil suit, get a survey done but it is much more accurate than it was and we are working on correcting the rest of the subdivision but that line is not accurate. She said if you look at it now it is a little bit closer but it has been moved.

Mr. Gutoskey said it seems like it should follow the tree line more.

Ms. Jacobs said it is like over here now.

Mr. Gutoskey said it looks like the shed is on the corner of the line.

Ms. Endres said her question is, is it based on a survey.

Ms. Jacobs said some of these old subdivisions and this is not the only one that we have negative issues with.

Mr. Gutoskey said to check Pilgrim Village.

Ms. Endres said and Tanglewood.

Ms. Jacobs said as they learn about them but sometimes if they are older the deed descriptions weren't as accurate as they are now so when we were first working on the older deed descriptions and we had more transfers and people getting surveys done etc. we have a lot more accuracy to work with so when we have one change the whole thing shifts so we are working through it when we become aware of it and we became aware of this, we did fix that line but the general subdivision lines are old but in the next couple of months we will get that fixed.

Mr. Lewis said we use it as a benchmark and as a guideline regularly.

Ms. Jacobs said she highly suggests for individuals to use surveys and for zoning enforcement to measure from the property line.

Mr. Lewis said all we were trying to do is make sure, even with your property, if we've got something and it needs to be moved or anything like that we make sure it is 100% on your property, if it is close to a property line we need to make sure that we are addressing the side yard or rear yard variance which keeps your property clean and tidy, it is a housekeeping effort at both ends.

Mrs. Foster said if she doesn't care.

Mr. Gutoskey asked you figured out how far your shed was off the line were you able to measure off of something or was it taken off of ReaLink.

Mr. Cohen said it was off of ReaLink.

Mr. Gutoskey said because now with the line moving.

Mr. Lewis said we don't know how far you are off.

Mr. Gutoskey said he is going to be less.

Mrs. Foster said she didn't understand and asked how he measured the 35'.

Mr. Cohen said it was from ReaLink, from the website but he knows exactly where the line is. He said it is either 35' or 25' away from the property line.

Mr. Lewis said we have to be pretty exact when we make our motion.

Mr. Gutoskey said 25' is too close.

Mr. Lewis asked if there is anybody else out there that wanted to comment on this application.

Mrs. Foster said she lived there with her husband for 45 years and when they moved there was not a survey that was required however when you look at that property there was a tree line that went just like that, Mr. John Davidian owned the other property and of course we bought this property so it was indicated to them that that was the property line so in the meantime for 45 years we have enhanced it, we have added Arborvitaes to it, we have built up a little retaining wall and a fence to keep our dogs in so we had done due diligence in taking care of what we thought was our property line otherwise we wouldn't have done that and that includes the shed so she just wanted to make that clear, it was not apparent, it was a mistake at that time and things were kind of, let's face it, loosey-goosey back then and we just assumed then at that point and we treated it like ours for 45 years, she just wanted to make that point clear.

Mr. Lewis said he appreciates her input.

Mr. James Kadunc or 7396 Ober Lane testified that he is to the east side of Mr. Cohen's property and he has gotten to know Mrs. Foster pretty well here in the last year and she asked him for some help on some things and it is one of the reasons he got involved in this and the other thing is they are trying to resurrect their homeowner's association in Stoneridge because we've got abandoned houses that Ms. Endres is trying to help us out with. He referred to the aerial photo and said they found pins, this one was actually buried and we found it with a metal detector, and there was one up here, he measured about 30' off of this line in the easterly direction is where that other pin was, he thinks this line is more like that, and he doesn't dispute that we probably need a survey, from his perspective the two parties should probably split it and do it but Mr. Lewis he thinks you also mentioned the fact that there is kind of a weird lot size here and we have a lot of these in Stoneridge Colony, this thing was developed in the fifties. He said he doesn't believe there is more than maybe a half dozen lots that are even more than three acres, he is on a 1.9 acre lot. He said in fairness to Mr. Cohen the zoning regulations as he understands them you almost always have to go for a variance and again from his perspective for our homeowners the right procedure would be to come in and ask or get an estimate permit first and that would also then define placement.

Mr. Lewis said we give the applicant the guidelines and then if they want to file an application for an exception or a variance but get it all done before it is built.

Mr. Kadunc said he understands that but on this property he doesn't think it is possible to meet all those 100' and 50' things so is it up to the zoning inspector at that point to make recommendations or he says where he wants to put it and he comes in and asks for permission, how does that work.

Mr. Lewis said you consult first with the zoning inspector of what the nature of your project is and get guidance and you will get reference to some of our code so you can see feet and dimensions and all of those guidelines. He said if where you intend or wish to put your structure requires an exception or a variance then at that particular point you would make your application and come before the board of zoning appeals. He said these are not just arbitrary decisions that we make, there is a whole bunch of code and there are stringent guidelines that they have got to follow and in this particular case the structure is already up so he thinks this board already has a direction in mind that we are going to take this evening on it but once we close the public hearing part we will start to comment on that. He asked Mr. Kadunc if he had anymore comments.

Mr. Kadunc said no he did not, thank you.

Mr. Lewis said thanks for weighing in on it.

Mr. Gutoskey said they should probably get a survey done on that line.

Mr. Barr and Mr. Corcoran stated that they agree.

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

Motion BZA 2019-29 – 7372 Ober Lane

Mr. Lewis moved to table this application to the regular meeting to be held on November 21, 2019 as the board does have some requirements.

1. The board is requesting that a survey be done in order to know exactly where the property line is between Mr. Cohen's property and Mrs. Foster's property so that the board can determine accurately the side yard setback variance that the applicant is seeking for his shed.
2. At the same time the board will be looking to be sure that a shed on the adjacent property owner's property is truly in fact on their property and if the board needs to address that it will at such time.

Mr. Gutoskey seconded the motion.

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

Application 2019-30 by Karen Marlowe for property at 16707 Akron Street

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

Ms. Karen Marlowe was present to represent this application.

Ms. Marlowe testified that she has wanted a deck for a long time and finally came across the means to do so.

Mr. Lewis said it looks like on Akron Street you have five lots in a row.

Ms. Marlowe replied right.

Mr. Lewis said directly behind two of them you've got two other lots.

Ms. Marlowe said around 2,500 so she has a total of 4,500 in the back that goes against Bedford Street.

Mr. Lewis said Bedford Street didn't show on our picture.

Ms. Karen Endres, Zoning Inspector testified that she is going to bring it up on ReaLink. She said the county has more current aerials but she can't put labels on the parcels.

Mr. Barr asked Ms. Marlowe if her back lot goes all the way to Bedford Street so it does have frontage over there.

Ms. Marlowe said right.

Mr. Lewis said two lots and each one is 20' wide.

Ms. Marlowe said correct and there are two more that are coming up that she is considering getting the next two as well, they are on the Forfeited Land list.

Mr. Lewis said so you are going to try to grab them.

Ms. Marlowe said she has looked at it.

Mr. Lewis said he thinks what the board has been doing is, because the lots are typically 20' wide and 100' deep so if you get five of them in a row, 100' wide and 100' deep that is enough to put a home on.

Ms. Marlowe said she started in '04 and finished in '05 and she doesn't remember when she bought the back lots, she is not sure, she thinks it was '07 but she is not sure.

Mr. Lewis asked what is coming out of the back of her house, is that a stair, is that a grill, what do you have there.

Ms. Marlowe said those were temporary steps that were put there by Wayne Homes when they constructed the house.

Mr. Lewis said okay and asked if it was her intention to grab five lots on Bedford if it works out for her.

Ms. Marlowe said she has four so she would only need one more.

Mr. Lewis said it is looking like she is heading for a buildable lot site. He asked if her five lots now, are they all joined as one lot with the Auditor's office in Geauga County or are they still five separate lots.

Ms. Endres said they are still five separate lots, they haven't been consolidated, they show on the deed as one but they are not consolidated into one lot so in theory any property owner could sell a lot one at a time. She said this one lot over here doesn't have any structure or driveway or anything else on it so it is not necessarily that the bank would pick up on.

Ms. Marlowe said she doesn't want anybody next to her.

Mr. Gutoskey said the property came from the township, there are five deeds, one for each lot.

Mr. Lewis said your house is on there, that is fine and we love what you are doing but when you build a structure and it crosses from one lot to another even if it is the same owner, you are going beyond the zoning code and there is a really easy work around on this and it is not going to break the bank doing it and we are probably going to make that into our motion, we are going to request that you get an Affidavit of Fact and what that will do on paper is it will say you are treating all five separate lots as one lot and Ms. Endres can guide you on it.

Ms. Endres said we will help you with that and basically it lists the parcel numbers and they can never be sold separately, only as one unit.

Mr. Lewis said your house is straddling multiple lots, it is more of a housekeeping thing without having to go into a bunch of titling and surveyors. He asked if anybody has any questions on the deck.

Mr. Barr said his only question is Ms. Marlowe, you have your five in a row where your house is at and you've got two in the back, are you going to look to add those altogether or are you just going to collect those five in the back for a future sale.

Ms. Marlowe said she just likes having the land.

Mr. Barr said the only reason with that is it pertains to the setback, if you got the Affidavit of Fact and put those two together, it would eliminate some of the variances possibly needed because of the lot size but if you wanted to keep it as the lot you have your house on and then keep the two separate and then you add to it, it could be something that you could sell later.

Mr. Gutoskey said if you combine them all then you have a double frontage lot.

Mr. Lewis said if you joined the two on Bedford to your five and if you centered your deck in your back yard so that the distance behind it actually went all the way through onto the other lots, you wouldn't be looking at a 25' setback you would be looking at 125' setback and you wouldn't even need a variance but it will definitely encumber those two lots to your bank of five.

Mr. Barr said he thinks she would be better off with the variance and keeping them separate but having your five and then keep the other ones behind it and the other ones if you do acquire them, keep them separate in case down the road you might want to do something different with them.

Ms. Marlowe asked about the Affidavit of Fact.

Mr. Lewis said do that for the first five.

Mr. Barr said he doesn't think she needs to do anything with the other two right now.

Ms. Marlowe asked about getting a new deed.

Ms. Endres said you are going to need a new deed in this process, if you had to re-plat those five lots into one then you would have to create a new deed, the Affidavit of Fact is a way of accomplishing what the board would like to accomplish making sure that the lots that were presented to the board as one building unit that they remain together permanently.

Ms. Marlowe said okay, sounds good.

Mr. Lewis said and it is a real inexpensive way to go approaching it.

Ms. Endres said it is a \$28.00 filing fee at the Recorder's Office.

Mr. Lewis said we want you to spend your money on your deck. He asked if there is anyone else that would like to comment on this application.

Mr. Gutoskey said we are looking at the rear yard variance and lot coverage. He said in 2004 it had 23.4% lot coverage but it is at 22.9% now.

Ms. Endres said correct, there are already lot coverage variances on the property.

Mr. Lewis said it is just the rear yard setback from 90' to 27'.

Ms. Endres said originally they were going to make a parking pad off of the side of the house from the original site plan but that was never constructed so that lot coverage was never used.

Mr. Lewis said all we have is the rear yard setback.

Mr. Gutoskey said from the original variance it was 43', so there was a variance.

Ms. Endres said that was when the original house was constructed.

Mr. Gutoskey said so we are changing it from 43' to 27' because we had already given a variance from the 90' to 43' so it will be a variance from 43' to 27'.

Ms. Endres said right, the variance is 43' and the request is 27'.

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

Motion BZA 2019-30 – 16707 Akron Street

Mr. Lewis moved to grant the applicant the following variance for the purpose of constructing a deck.

1. A variance to 27' off the rear property line off of a pre-existing rear yard setback variance that was granted at 43'.

Based on the following findings of fact:

1. A practical difficulty exists because these are narrow and shallow lots of record.
2. This is consistent with other home sites and additions the board has granted in the area.
3. The applicant has agreed that she will obtain an Affidavit of Fact for the record of treating all five lots on paper as one and the board would like to see that presented in the next 30 days.

Mr. DeWater seconded the motion.

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

Application 2019-31 by James P. Kelvington for property at 7877 Bainbridge Road

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

Mr. Lewis swore in Mr. James Kelvington because he was not present at the beginning of the meeting.

Mr. Kelvington was present to represent this application.

Mr. Kelvington testified that his wife wants his tractor out of the garage so he wants to put a shed in the back. He said he needs a shed to hold his yard equipment.

Mr. Lewis said it looks like in reading over the application that there is no issue with rear or side yard setbacks, you are here because of an increase in lot coverage for this structure.

Mr. Gutoskey said and the patio.

Mr. Lewis said so tell us about this patio, did you put this in.

Mr. Kelvington said no, he had a contractor come in and do it.

Mr. Lewis said you were the property owner at that time.

Mr. Kelvington said yes but he had a contractor come over and put it in for them.

Mr. Lewis said they didn't come in and get any permits.

Mr. Kelvington said no they didn't but he wasn't aware of that but they didn't according to Ms. Endres.

Ms. Karen Endres, Zoning Inspector testified that there is nothing on file relevant to the patio.

Mr. Lewis asked if he would have been over lot coverage doing the patio.

Mr. Kelvington said she said it is 2 point something over with the shed.

Ms. Endres said the shed is not that big so he probably still would have been over and added that patios do require a permit.

Mr. Gutoskey said he was over 10.7% before the patio and shed.

Ms. Endres said her thought is if the board approves this she would include the patio.

Mr. Lewis said which is really good if we are going to do housekeeping let's get everything included.

Mr. Kelvington said he swears he won't build anything more on his lot, even though you are old you learn a lot.

Mr. Gutoskey asked if there is anybody in the audience that would like to ask any questions about this application.

Mr. Lewis asked if the board has any comments on this application.

Mr. Kelvington said he was going to put it more in the corner but Ms. Endres helped him with the location and it is fine.

Mr. Lewis said before you build, check with the zoning inspector first.

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

Motion BZA 2019-31 – 7877 Bainbridge Road

Mr. Lewis moved to grant the applicant the following variance for the purposes of building a shed.

1. A variance from the maximum lot coverage of 10% to 12.2% which also takes into consideration a patio that was previously built so the board has included that with the shed in the lot coverage.
2. The applicant is complying with all of the rear and side yard requirements so there are no variances needed there.

Based on the following findings of fact:

1. A practical difficulty exists because this is a lot of approximately 1.55 acres.
2. Between the residence and the driveway and a modest patio, exceeding 10% lot coverage is within reason.

Mr. DeWater seconded the motion.

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

Application 2019-32 by Don Watson for property at 16770 Medina Street – Garage/Carport

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

Mr. Don Watson was present to represent this application.

Mr. Lewis stated that the board will take the two applications separately.

Mr. Watson testified that the first one is the garage and he just wants to build a one-car garage for the wife.

Mr. Lewis said you were here for previous applicants where they were talking about their deck and that applicant had five lots.

Mr. Watson said that he has six lots.

Mr. Lewis said absolutely but the board wants to check with Ms. Endres to see if those are still considered six separate lots.

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

Mr. Lewis said to Mr. Watson, what the board would like you to do also is to file an Affidavit of Fact which on paper treats all six lots as one lot otherwise even though you are the same owner, your house when built, is crossing property lines and we need to make it one.

Mr. Watson said his house was built by Habitat for Humanity so wouldn't they have done that.

Mr. Lewis said they just didn't do the paperwork on it because otherwise they have got to go through all of the deeding and re-platting and surveys and there are a lot of dollars for that process. He said the Affidavit of Fact ties them altogether, it cleans it up and it is very inexpensive to do and you can work with Ms. Endres to get the paperwork drafted up.

Mr. Gutoskey asked if he is keeping a strip next to the house.

Mr. Watson said he has motorcycles he rides through there so he just wants a one-car garage.

Mr. Gutoskey said it will be on one side of the pad, on the north side of the pad.

Mr. Watson said 38' that way and he will still have that.

Mr. Gutoskey asked Ms. Endres, when they did that original house, did they have a variance for the rear.

Ms. Endres said there were no variances that she could see.

Mr. Gutoskey said we are in the same situation that we just had on the deck so we should clean up the house too.

Mr. Lewis said if we have the dimensions let's do it so your property is dressed up, all of the variances are in place and there are no encumbrances, we can handle all of that with variances.

Ms. Endres said this is the site plan what was approved when the original house was built, this is an original from the file. She explained that this is the site plan but it was done in 1993.

The board reviewed the original site plan.

Mr. Barr asked what the distance is between the home and garage.

Mr. Watson said he thought he put it on his drawing but it is wide enough for him to drive his truck between the house and the one side of the garage because he normally likes to drive it in the backyard and wash it so he can drive a GMC 1500 and it would fit between the garage and the house to drive around the back to wash it right there in that back corner. He said that one side of the garage would be 38' and there is a ravine that runs through there like a natural waterway.

The board discussed the setbacks.

Mr. Gutoskey asked Mr. Watson how much space is going to be between the house and the carport.

Mr. Watson said at least 14' because he can drive his truck through there.

Mr. Lewis said without knocking the mirrors off, you need an extra wide garage door.

Mr. Watson said see on this side, where you are looking here, he referred to the site plan, where it says 31', when Habitat built his house it sits below the street so the natural waterway that comes in from this side of Medina, it actually came this way so they brought in 42 truckloads of dirt to give him a yard here.

Mr. Lewis said the house is 31.5' off the side yard.

Mr. Gutoskey said it is 51' not 31' so this doesn't even need a variance for the house.

Mr. Lewis said no, it doesn't.

The board continued to review the site plan and proposed variances.

Mr. Barr asked Mr. Watson if he is the same Watson that owns the back.

Mr. Watson said his sister lives there.

Ms. Endres said we can't rely on ReaLink being correct.

Mr. Gutoskey asked if the garage is going to be lined up with the front of the house or the back.

Mr. Watson said the back and added that they had to bring in 42 truckloads of dirt so from the original to where it is now, they brought in a lot of dirt to give him yard there.

Ms. Endres said she is not sure if the house is actually built according to the site plan.

Mr. Gutoskey said the roads in Chagrin Falls Park are not centered at all.

Ms. Endres said she agrees.

The board asked Ms. Endres about the lot coverage.

Ms. Endres said it depends on if the carport is entirely over the existing driveway, she couldn't tell for sure if the carport would be totally or partially over the existing drive. She said if you make it 22.03 that would do it if the carport is not on the driveway. She said it looks like the carport will be partially on the driveway.

Mr. Lewis asked Mr. Watson if his drive is paved or gravel.

Mr. Watson said it is gravel now.

Mr. Lewis said every time the snowplow comes down, they grow wider.

Mr. Watson said it has gotten wider over the years.

Ms. Endres said sorry about the confusion, she calculated it two ways, one with it entirely on the existing and one is entirely off so if you approve lot coverage with it entirely off the driveway it would be the 22.03 and she included the shed on both of them.

Mr. Barr asked if the shed we are talking about is the one that is already there.

Mr. Watson said yes.

Ms. Endres 22% should do it.

Mr. Barr said he thinks you are going to want to go bigger with this variance because if he brings the garage out and it does come into the grass he is going to have to make the driveway wider to get into the garage.

Mr. Gutoskey said 22% is figured if it is totally not on the existing drive.

Ms. Endres said that is correct.

Mr. Lewis said it is partly there so you can get your truck between the house and garage which was your goal to get to the backyard with your truck.

Mr. Watson said yes.

Mr. Lewis said what we were talking about was you don't have enough driveway to get into here without riding on the yard so he thinks what the board was suggesting was a little bit more gravel.

Mr. Watson said yes.

Mr. Lewis said we've got a building on the other half of this.

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

Motion BZA 2019-32 – 16770 Medina Street - (Garage/Carport & House)

Mr. Lewis moved to grant the following variances.

Garage/Carport

1. A variance to increase the lot coverage from the maximum of 10% to 22% for a variance of 12%.
2. A variance to the minimum required front yard setback of 100' to 22' for a variance of 78'.
3. A variance to the minimum required side yard setback (north side) of 50' to 25' for a variance of 25'.
4. A variance to the minimum required rear yard setback of 90' to 54' for a variance of 36'.

House (Pre-existing structure also on the same six lots.)

1. A variance from the required front yard setback of 100' to 20' for a variance of 80'.
2. A variance from the required side yard setback (south side) of 50' to 20' for a variance of 30'.
3. There is no north side variance required.
4. A variance from the required rear yard setback of 90' to 54' for a variance of 36'.

Based on the following finding of fact:

1. A practical difficulty exists because the applicant wants to add a garage for the purposes of storing his automobile and other vehicles.
2. A practical difficulty exists because they are pre-existing narrow lots approximately 20' x 100' deep.
3. The applicant has acquired six lots and has built a home on them.
4. These are small lots of record.
5. The practical difficulty is because of the size of it building out the lots acceptably with a home and a garage goes over the 10% lot coverage.
6. The applicant will have 30 days to execute an Affidavit of Fact for the record of treating all six lots on paper as one lot.

Mr. Gutoskey seconded the motion.

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

Application 2019-33 by Don Watson for property at 16770 Medina Street - (Shed)

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

Mr. Don Watson was present to represent this application.

Mr. Lewis stated that this shed is already built.

Mr. Watson testified by saying for three years. He said they were under the impression too and the neighbors said we didn't need anything, just have it built.

Mr. Lewis said and nobody is upset, we are taking this opportunity to clean everything up so that you don't have any conflicts and lesson learned, don't build anything without visiting our zoning department first to get coaching and guidance, they are here to help you.

Mr. Watson said Ms. Endres is a big help, no doubt about it.

Mr. Gutoskey said now you make sure you tell the rest of the neighbors.

Mr. Lewis said he is going to go through and work this variance right now and asked if the board had any questions on this with lot coverage and placement on the lot. He said he believes this puts it at two accessory structures, the carport and the shed, that is the limit so don't add anything else please.

Mr. Gutoskey said unless you connect it to the house.

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

Motion BZA 2019-33 – 16770 Medina Street - (Shed)

Mr. Lewis moved to grant the following variances associated with the shed. He would also like to make note earlier on this that the lot coverage was addressed of adding the shed into the lot coverage of BZA 2019-32 where the board did increase the lot coverage to 22% as it is the same property and it ties these two applications together.

1. A variance from the minimum required front yard setback of 100' to 72' for a variance of 28'.
2. A variance from the minimum required side yard setback (south side) of 50' to 13' for a variance of 37'.
3. A variance from the minimum required rear yard setback of 90' to 13' for a variance of 77'.

Motion BZA 2019-33 – 16770 Medina Street - (Shed) - Continued

Based on the following findings of fact:

1. This is based on practical difficulty.
2. These are small lots being joined together and don't provide a lot of room for accessory structures and home building.

Mr. Gutoskey seconded the motion.

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

Application 2019-34 by SDC III-OH, LLC for property at 7135 Aurora Road

The applicant is requesting a conditional use permit for the purpose of constructing a new multi-tenant building. The property is located in the MUP District.

Application 2019-35 by SDC III-OH, LLC for property at 7135 Aurora Road

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

Mr. John Wilson and Mr. Erich Smith were present to represent these applications.

Mr. Wilson thanked the board for its time and thanked Ms. Endres because she spent a lot of time working with them on this. He testified that he works for the Morgan Companies, he works in Charlotte, North Carolina but they have offices in South Florida, Charlotte and up in Western Virginia. He said this is their first project in Ohio and what they are trying to do is the former Ruby Tuesday restaurant right here at 7135 Aurora Road, it is an outparcel to the Walmart Center and Kohl's and everything else there and it has been dark for a year or so. He said his company picked it up and would like to do a small redevelopment project still retail and he has been through the board of trustees on their elevations and he has gotten approval on that end and now just kind of looking to see what they need to do and push the process as they need to. He said the property is 1.66 acres, right now it still has the Ruby Tuesday building on it, single tenant, about 5,700 sq. ft. former restaurant and what we are looking to do is a 7,500 sq. ft. building, it will be set up for multi tenants and what we envision are three users, potentially four but we would most likely look to do three and that 7,500 number is bound by the development agreement for that particular parcel, you can't do anything over 7,500 sq. ft. so we are sticking with that and one of the big things they learned early on is lot coverage and we worked with Wade Trim, our engineer here to make sure that we did not increase that number so we are staying the same within the lot coverage with the new plan.

Mr. Gutoskey asked if the parking lot will stay the same.

Mr. Wilson said it is going to be reconfigured a little bit but we are not making it any bigger.

Mr. Erich Smith referred to the aerial photo and testified that here is the existing building, the Ruby Tuesday and as you can see it is after it is closed so there is not a lot happening.

Mr. Wilson said this is their site plan for the Ruby Tuesday he wanted to show that just before we showed ours so you got a little idea of where we are going. He said as far as the Ruby Tuesday restaurant they do not plan to go further to Aurora Road, it is going to be back a little bit so they don't want to get any closer to that setback.

Mr. Gutoskey said so you will be holding the existing line.

Mr. Wilson said that is right. He said this is our site plan with the proposed building, we do stick within our parking boundaries that we need to be at for a restaurant, we've got two restaurants that we are talking to that would go on either end, right here and right here, he referred to the displayed site plan and this has a little drive-thru right there so it will circle around back and he thinks from a parking standpoint for the middle space they can't do another restaurant so it will have to be just pure retail because the parking standards per the development agreement are pretty stringent on restaurants so that would be it for a restaurant use.

Mr. Lewis said so you are working with two probable anchor tenants right now.

Mr. Wilson said they are finishing leases with two national tenants, one is a restaurant and one is coffee.

Mr. Barr asked if they are going to be sharing the drive-thru.

Mr. Wilson said no just the coffee, that will be their driveway.

Mr. Barr said he didn't know with going forward ordering ahead and picking up if there was going to be a pick-up window.

Mr. Wilson said no, that is something that the Mexican restaurant does but they are not doing that here, not doing any kind pick-up window. He said the building configuration is a little bit bigger than the old building but it is still within the limits. He said the parking has changed a little bit but we have tried to keep as much as we possibly could, that island area and the whole front parking field is the same and there is no increase in their lot coverage so he thinks they are trying to stay within the box that we need to be in.

Ms. Karen Endres, Zoning Inspector testified that there will be two outdoor eating areas.

Mr. Gutoskey said that was his next question, there will be outdoor dining.

Mr. Wilson said there will be outdoor seating there and they have done buildings like this before and they are committed to putting safety bollards or whatever needs to be put there, we are committed to doing that and the tenants that we are working with, he thinks they like to pick the bollards that they use so we will be getting that information.

Ms. Endres said she got a call from someone relevant to alcohol, the Chipotle restaurant but that was new information that came up.

Mr. Wilson said that is new to them too, that is maybe something they need to address.

Ms. Endres said she doesn't know if they are planning on patio umbrellas or is the building patio roof areas, it sounds like that could be problematic for the landlord.

Mr. Wilson said typically they would just do umbrellas and tables out there.

Ms. Endres said the board probably would want to be aware of the possibility of alcohol.

Mr. Lewis asked if the coffee place is wanting to pick up an alcohol serving permit or the other place.

Mr. Wilson said the other place.

Mr. Barr said the only thing with the outdoor, do you have to have fencing around it, alcohol has to be behind a fenced-in area he believes.

Ms. Endres said they do, right, and there is not fencing on the plan.

Mr. Lewis said we made the Greenville Inn go 8', but it was in the middle of a residential area.

Ms. Endres said she doesn't mean to blindside everyone with that but that just came to her through one of the vendors involved or one of the stakeholders involved with this.

Mr. Barr said there would have been an alcohol permit for Ruby Tuesday.

Ms. Endres said she didn't think Ruby Tuesday had outdoor dining, only indoor dining, but she thinks alcohol can be a problem with outdoor.

Mr. Barr said they didn't have any alcohol.

Mr. Lewis said they have to satisfy state requirements for serving alcohol and if it is going to go outside they are going to have the appropriate barricades etc.

Ms. Endres said if that happens they would need to come back in front of the board.

Mr. Lewis said he would like to know about it because they would want to modify the conditional use if there was going to be alcohol involved and at that time the board would also want to see a revision of your construction or your building plans and reassurances that you are making all of the safety requirements with the state.

Mr. Wilson said something showing whatever bollards or fencing.

Mr. Lewis said whatever is required because either you can enter the establishment through the patio where there is alcohol or you can't leave with alcohol to the parking lot, you can get in any way you want but you have to go out a certain way.

Mr. Gutoskey said the plans are maybe serving caffeine products, the problem there is, we have a Dunkin Donuts up on Rt. 306 that we have problems there with cars backing up onto Rt. 306 waiting in line and his concern here is with that driveway that goes out to Marketplace is cars coming in and trying to make a left there and kind of blocking the traffic on Aurora Road. He said typically when he represents a shopping center it is getting traffic in off the street and getting them circulating inside but he can just see somebody wanting to get in there and just blocking traffic u

Mr. Guto p on Aurora Road there.

Mr. Lewis said they are coming in from Aurora Road and they come in 100' and they may want to make a left to go into your property, now we are backed up at a traffic light at a major intersection.

Mr. Smith asked if there is an existing drive there now. skey said right but because of the way the place itself works there is a lot of drive-thru traffic and we have one over in Solon, the line there is always backed up and his concern is that it is going to back traffic up at that intersection.

Mr. Smith said you can see the representation of the rectangles there, you've got eight in the queue.

Mr. Gutoskey said that is nothing.

Mr. Smith said so your thought is do they come all the way around that side of the building and keep going and keep going.

Mr. Gutoskey said what he was wondering is, he doesn't know if that one entrance there is a right in, right out only and force the traffic to come in the back and loop the building and go in the southern entrance to go to the drive-thru.

Mr. Corcoran asked if it would inhibit traffic that normally comes in and cuts through to get to the other businesses adjacent.

Mr. Lewis said if people come in there they want to make the left and short-cut right across the face of the buildings to go to the next retailer.

Mr. Barr said in the morning with the amount of traffic coming out of Aurora to stop here to get possible beverages that could very easily cause a problem.

Mr. Corcoran said he is down there a lot and that McDonalds, most of the traffic enters that drive-thru area from the back.

Mr. Lewis said exactly so they don't have to drive all the way around the building.

Mr. Smith said it would be something as easy in that boulevard to put a no left turn. He said you are saying people come in off of Aurora and at that outside light coming in put a no-left turn sign.

Mr. Gutoskey said he doesn't know how that affects your cross traffic there.

Mr. Lewis said that leads back to one of Mr. Gutoskey's earlier questions which was do you have a pick-up window, so now you don't so there is no way to advance the traffic rapidly that is in line and you could be 20 cars in line for the caffeine junkies on the way to work and because there is no pick-up window he gets up and places his order, he gets a fancy drink and there will be people waiting behind him.

Mr. Gutoskey said he knows from the Starbucks in Solon and the way that Dunkin is on Rt. 306, he went by there the other day and there were cars on Rt. 306 turning right in.

Mr. Barr said he doesn't know if you are familiar with the Dunkins on Rt. 306 but it is a long building and those cars wrap all the way around the building and it is at the busiest intersection in the county.

Mr. Lewis said they draw a lot of customers.

Mr. Gutoskey said unless we could put a Starbucks entry drive-thru sign.

Mr. Lewis said when they come down the boulevard, first in, set them down and get them in line through the back

Mr. Barr said that may involve some curbing or something like that on the northwest corner that is closest to Kohl's to try to drive them to come in and curve into the entranceway because we want them to come in through here and come in the back.

Mr. Lewis said and right in there, jump in line.

Ms. Endres said for all businesses you need to make sure the traffic keeps moving.

Mr. Lewis said that is the problem.

Mr. Gutoskey said when Ruby Tuesday was there it wasn't a problem, they came in and parked.

Mr. Barr said there wasn't the volume of traffic.

Mr. Lewis said you can only stack about four cars at the intersection before somebody is trying to make a left and as people are exiting they block, because there are no stop signs there, they block that where you make a left. He said it is not a deal breaker, we are just trying to figure out what is the most practical way to do this so that we don't cause any accidents or hardship.

Mr. Smith said we want it to be safe too, we will do what we can.

Mr. Lewis said he kind of like's Mr. Gutoskey's idea, up at that front where they want to make the left, you can put one of those concrete things in the middle that is shaped like a triangle so you can only go right in if you are coming from that side of the shopping center or right out, it doesn't allow for a left turn to even get in that way, he doesn't know if the fire department would like that.

Ms. Endres said we are talking about affecting signage and things that are off the property then, so we are off this property and into private property.

Mr. Lewis said that is hard to do.

Mr. Gutoskey said but there is a development sign for the development on their property.

Mr. Corcoran said he doesn't know how much people in the middle retail business like that either because you are inhibiting traffic to their buildings.

Mr. Lewis suggested going through the rest of the presentation because we could spend an hour on the parking.

Mr. Wilson said they just kind of wanted to run through the main things. He referred to the slides and said here are the elevations that they took to the board of trustees, he thinks they started with a pretty good building and they helped us out and we improved a few things namely some of the awnings and in the back especially they had us raise the two parapets to give it a more architectural look and then there are awnings in the back they have for deliveries and you can see the drive-thru window on the back side right there. He said as far as the look of the building and what they were trying to do when the center was built it was primarily a brick center and then some new tenants have come in there is more of a modern gray type look so we tried to marry those two things together to look like the surrounding buildings and that is their elevation so far and a lot of what else they had back there was signage for the rest of the presentation.

Ms. Endres said those are on a separate file.

Mr. Gutoskey said so your building height is good.

Mr. Wilson said yes.

Ms. Endres said this is kind of relevant to what the board of trustees asked for, the parapets were expanded in the rear so they match the front parapets and another thing the board asked was to verify that the roof equipment was not visible and this rendering is before the parapets were extended but it demonstrates the height of the rooftop equipment.

Mr. Wilson said and that is something we are used to as far as shielding that rooftop equipment, the townships don't want it, the tenants don't want it, that is something that we certainly would do.

Ms. Endres said and the other item that seemed to be important to the trustees is they wanted the dumpster enclosure to match the building.

Mr. Wilson said yes, he thinks they wanted to see that.

Mr. Smith said the existing dumpster is in the back corner.

Mr. Wilson said it is not in the best shape so we can redo it.

Mr. Lewis said so you are going to redo that and have it match and you want it to look nice.

Ms. Endres said the dumpster enclosure will match the building façade.

Mr. Wilson said he can see why they would want us to cover it up.

Ms. Endres said one of the things Mr. Markley liked was to see vegetation also around the dumpster.

Mr. Wilson said he will review the signage.

Mr. Lewis said he knows there are two applications but just for continuity purposes.

Mr. Wilson said he thinks it is listed on their application for signage, what they are looking to do is to get a variance for the existing signage and he thinks going from one tenant to three and possibly four they are just looking for the possibility of having some more square footage to accommodate everybody and he doesn't think the signage they are after is not abnormal or gaudy in any way. He said they have some pictures as well of some of their tenants and what their signs look like and this is essentially what they do and that circular logo there and then drive-thru and that is the side above the drive-thru and then they will have that same circular panel in the drive-thru box or just Starbucks in the drive-thru panel on the front and that is common for them, anywhere they go they want it on the front and on the side since they have that drive-thru window.

Mr. Wilson continued by saying what they want to do and they don't have specific sign packages from the tenants which they are working on getting now as we kind of finish up our agreements, we just wanted to put it out there that what is there today and bringing the three tenants he thinks they are going to need a little bit more so he wanted to get some examples of the type of signage they use so everyone will see it is not going to be a bunch of neon lights or anything crazy on it, just your typical Starbucks package.

Ms. Endres asked how high these signs are, one of the things is we gave a maximum sign height of 22'.

Mr. Wilson said these are just some examples and as far as the monument sign that is currently there, our plan is to just reuse it, it is already internally backlit, instead of being one panel, we will have it broken up into three panels, we don't plan on changing the size of that.

Mr. Lewis said you will just change the inlays.

Mr. Wilson said yes.

Mr. Gutoskey asked Ms. Endres on some of these drive-thru signs or informational signs, you don't really count them in the square footage.

Ms. Endres said as long as it is less than 3 sq. ft. in size, a logo would be advertising and directional.

Mr. Gutoskey asked if the logo is counted as signage.

Ms. Endres said if it is 3 sq. ft. or smaller she considers it as ancillary signage, usually directional, drive-thru.

Mr. Smith said so that last example that had the logo separate and the drive-thru so the drive-thru is directional so it doesn't count in the overall square footage of signage.

Ms. Endres said if they are 3 sq. ft. or smaller otherwise it counts toward their signage.

Mr. Lewis said that is on-premises advertising with the directions on the premises but unfortunately you can't put it on the boulevard coming in.

Mr. Wilson said he thinks they just do that so they know there is a drive-thru at the location.

Mr. Lewis said we were talking about this earlier, if you want to go to either of those establishments, once you have been there the first time, and they primarily serve local residents, not somebody driving through from Pittsburgh, people learn their way around after the very first trip. He said he sometimes thinks that people think more is better but once you have identified the presence of your business, between word of mouth and your frequent visitors, you know your way.

Mr. Wilson said no doubt.

Mr. Lewis said there are some golden arches out there that don't need a lot of signage and everybody knows what they do there.

Mr. Wilson said this is similar, they are followers and this is not an exact representation of what our sign would look like, but just an example until we get the package and he knows that Ms. Endres has told them that when the tenants are ready they will have to be individually approved.

Mr. Lewis said so you know how this will work, it is one building, the board will render a decision on how many square footage of signage will be going with this building, it is pretty much up to you guys to allocate to your tenants and then bring the sign packages in so we can verify their placement and their dimensions and if you exceeded the overall total and the last guy to rent gets a smaller sign because everybody used up everything.

Mr. Wilson said that is what they want to do is try to get what we thought would be the sign that those guys would need and leave the comparable amount in the middle, something like that but we will definitely have them come in with their packages when they are ready.

Mr. Lewis said he gathers what you are looking for from the this board tonight is kind of like an aggregate total guideline of how many square feet of signage, at least at this juncture, without any formal presentations you are looking for a guideline number, not necessarily anything that is an approval, you have an application in but there is really nothing to approve other than how many square feet are you going to give us and then if you want to challenge that or appeal that down the road but we pretty much stand fairly tight on that once we set the number, anyway you are already going to get extra because you've got two units that actually have two sides so you are already going to be stepping beyond what our normal was anyway.

Mr. Gutoskey said we are considering that a corner.

Mr. Lewis said to Mr. Gutoskey's point, directional signs that are not advertising like that one on the top left, it doesn't have a logo on it, there is no advertising and of course if your tenant happens to have some colors that they always use light white and forest green there are work arounds.

Mr. Gutoskey said he thinks Ms. Endres explained that there is a process of updating the signs. He asked if that will help or hinder.

Ms. Endres said it will be both and if the zoning commission approves the new sign regulations they will get the wall signage, they will get 1.25 sq. ft. of signage for each lineal feet of building space so if Starbucks have 40 lineal feet then they would get 40 sq. of wall signage however under the new regulations they are only allowed one wall sign so if they want to put a sign on the north and east side of their building they would need a variance for the number of signs even if they are under the square footage they would be allowed so there is kind of a trade-off. She said under today's sign regulations there can only be 156 sq. ft. of signage but that 156 will include all of the wall signs, all the window signs, the ground sign and any other permanent signs such as the menu board so those are permanent signs.

Mr. Wilson said that adds up quick.

Mr. Lewis said we realize you are trying to sign your clients to a lease and you have got to be able to tell them something but our language in our resolution over the next 60 days will probably be adopted or very close, your construction project is going to take you six months.

Mr. Wilson said yes, we are probably not going to start until after the winter, probably early next year.

Mr. Lewis said maybe to Ms. Endres' point if you sit tight until our new resolution goes in effect you may find that you are getting a better deal out of it with what you can get. He said two sides on a building, that is a fairly common request for a variance.

Mr. Wilson said he thinks the Kay Jewelers next door, he doesn't know if they are on the side or the front.

Ms. Endres said several buildings have multiple signs. She asked if the 225 sq. ft. they are asking for, does that include just wall signs or does that include the menu boards.

Mr. Wilson said he thinks that will include the menu boards as well but he was a little confused because he thought they were going in under the current.

Ms. Endres said she has to evaluate under the current she is just trying to make you aware that she expects that there is going to be a zoning change come through relevant to signage and she can't issue sign permits anyhow until the businesses apply for the commercial use permits but her understanding is you are trying to get this ironed out because of negotiations with your tenants.

Mr. Wilson said you are 100% right, it is just a matter of we have closed on the property and we are finishing up our leases and if possible what we are trying to avoid is for them to come in and say unfortunately the 15 sq. ft. of signage won't work for us, we're out of here, that is what we are trying to understand.

Mr. Lewis said some of us on this board worked on that major shopping center, the shopping center layout was easy, the signs went to one or two in the morning. He said the big box stores were huge and they were using way more than their proportionate share for the whole center.

Mr. Wilson said he wanted to show some examples and this is the signage you are talking about, this is what you will see anywhere you go for what they do but again he just wants to express that this is typical, they are not going to use any crazy bright signs, no flashing or things like that, so he just wanted to show some examples of some recent projects and on the next one down we have Starbucks examples too and these are actually some that we built and this is kind of if you see your circular logo and the drive-thru on the side and they kind of do either or, either Starbucks and then the drive-thru or that circular logo and the drive-thru on the front too so he just wanted to show the board actual signs that they use.

Mr. Lewis asked if they actually thought about the size of Starbucks lettering or their logo and kind of come up with this arbitrary number you are asking for.

Mr. Wilson said yes.

Mr. Lewis said with the double Chipotle signs on it and then the Starbucks lettering, their logo then over and you are giving the guy in the middle some.

Mr. Wilson said absolutely.

Mr. Lewis asked what they think.

Mr. Wilson said not sure yet.

Ms. Endres asked if they have any idea how big these signs are, do you have an estimate on how big the Starbucks sign is.

Mr. Wilson said yes, the circular logo could be anywhere from 19 to 25 sq. ft., typically the drive-thru, the little box is 7 – 9 sq. ft. for that and as far as the letter, he thinks it is a little bigger, around 30 sq. ft. and Chipotle is a similar size he just doesn't have their measurements.

Mr. Lewis did some calculations which puts them around 150 sq. ft. which is what our code allocates.

Mr. Wilson said the monument sign is 50 sq. ft. and then you add the menu board with directional signs.

Mr. Lewis said you can see how it adds up. He said he was just trying to work it through in his mind because none of these signs are huge, these are not 8' tall letters.

Mr. Gutoskey said the building is too short. He said he doesn't know if they ever went 40% over.

Ms. Endres asked is that number you are looking at, is that inclusive of wall signs, menu boards and the ground sign.

Mr. Lewis said that is why we were trying to add them all up.

Ms. Endres said when it is all said and done she just needs to understand what it is.

Mr. Gutoskey said they are looking at 225 sq. ft.

Mr. Wilson said initially they were only looking at 200 sq. ft.

Mr. Lewis said just to give you a sneak preview, your request is actually a 44% increase over our sign regulations, which we use the word substantial which is probably an understatement.

Mr. Wilson said sure.

Mr. Lewis said but he knows at least as far as this part of the signage application you are looking for a walk-away number so that you can try to close your deals and we are trying to be practical.

Mr. Wilson said and we appreciate it.

Mr. Gutoskey said with your directional signage if you can stay within the square footage on those.

Ms. Endres said each directional sign is less than 3 sq. ft.

Mr. Gutoskey said leave the logos off but maybe use the company colors, that can help you with some of that signage.

Mr. Wilson said yes, we can certainly look into it and that is a big increase and one of the things is going from one tenant to three or possibly four, it is just breaking it up.

Mr. Lewis said quite frankly, where you are getting clobbered, is you want two signs on two sides of the building so you are gobbling up a whole bunch of square footage to satisfy your tenant.

Mr. Wilson said sure.

Mr. Lewis asked if there were more slides.

Mr. Wilson said no, that is about it.

Mr. Lewis said you have two applications so we need to address the conditional use permit of the building itself, the three tenants, the shopping center status.

Mr. Wilson said sure.

Mr. Lewis said which kind of gets us to circle back around to the board is equally weighted in what we think and how we vote. He said we still have the traffic flow which he thinks from what he was hearing from the rest of the guys on the board.

Mr. Gutoskey said that was his main concern looking through the whole thing.

Mr. Barr said it stems from we have been through this before and the problem exists and we have just been lucky that there have not been any major accidents because of this and that is going into a two lane road where this could back out into a four lane.

Mr. DeWater said even the existing Bob Evans restaurant, during dinner time or lunch or breakfast time, people try to pull out of that front driveway to go out onto Rt. 43 and get caught across the driveway of people coming in off of Rt. 43 with the turn lane moved down, not being there, that problem will exist.

Mr. Smith said you know the traffic flow better than we do but it is hard to predict driver behavior.

Mr. Lewis said he thinks that is why the original developer put the back street behind it as well.

Mr. Smith said you've got good access management.

Mr. Corcoran said unfortunately he doesn't think there is any easy solutions for that, he thinks eventually habitual users of that place are going to figure out the best way that works for them so they are not sitting in a potential dangerous situation and it is unfortunate. He said he used to build restaurants for a company and the drive-thru pattern, it just naturally wraps around the building so they naturally enter from the rear unless the people know better like the McDonald's down the street, that is the habit and tendency of people.

Mr. Wilson said what you are saying earlier with the drive-thru sign once they go there a few times they will probably figure out their best way of access.

Mr. Lewis said it is a rough intersection there, it is a great high profile location for a business but for traffic it is a tough intersection.

Mr. Wilson said it is a massive center.

Mr. Lewis said he would be happy if the median was one continuous and the property owner or developer would just fill it in and you couldn't make a left to go in and there wouldn't be people banging into cars and you wouldn't even have to make any changes on your property.

Mr. Wilson said he has spoken with those guys but he can't speak for them. He said they had to get the developer, Walmart and Kohl's to sign on to our site plan and elevation first so they have already seen it and gone through it.

Mr. Gutoskey asked if that is something the trustees could have a conversation with the shopping center about closing that up because that solves the whole problem.

Mr. Lewis said it does, just fill in the median all the way and its done and you could still get to the Starbucks drive-thru, you could come in through the back easily to the parking spots if you want to do the Chipotle. He asked if anybody has comments on the first application, the conditional use permit.

Ms. Endres said in her notes the board probably saw where the setbacks were supposed to be 100' from the road-right-way and they are 62' and she is wondering if Aurora Road was widened over the years so we need to do a variance relative to the driveway setback, it is a housekeeping thing.

Mr. Gutoskey said yes it was.

Ms. Endres said they probably complied with the original plans and then when Aurora Road was widened.

Mr. Lewis said if we are going to do some housekeeping maybe that is an area variance.

Mr. Endres said it would be true with all of those.

Mr. Lewis said if that was the case we would have to bring in every single business along there.

Ms. Endres said she wouldn't mention it to them unless they were here for something else.

Mr. Lewis said but if you're here and we do that variance from 100' to 62' at least for your property you are clean, we've addressed it and there are no challenges, nobody can ever give you any grief about it.

Mr. Corcoran asked if that is the current setback or the proposed setback.

Ms. Endres said when everything originally went in the driveway and parking is supposed to be a minimum of 100' setback from Aurora Road and that was approved in the Memorandum of Understanding, the agreement with the trustees.

Mr. Lewis asked if that is curb or right-of-way or centerline on the road because they did widen it.

Mr. Gutoskey said yes they did widen it.

Ms. Endres said she thinks it is right-of-way, that is the only thing she could figure, she is looking at it and trying to figure out why everything is closer so she presumed that Aurora Road was widened and accounted for the difference. She said when you look at it across the street they are 100' from the road.

Mr. Barr said those buildings were built later.

Mr. Gutoskey said when they widened the road and took the right-of-way they brought it all to this side because they didn't own the property on the other side of the Geauga Lake property so when they aligned the road they did all of the widening to this one side.

Mr. Barr said that PNC bank was built afterwards as was Aldi.

Mr. Gutoskey said right but he thinks when they widened the road they took all of the right-of-way on the shopping center side versus the other side.

Ms. Endres asked if this should be considered a non-conforming situation, kind of like what happened over on Chagrin Road with the chiropractor.

Mr. Gutoskey asked if the dimensions to the curb is 62', the drawing says it is 62'.

Ms. Endres said you have the site plan.

Mr. Gutoskey said 62.1' and suggested just giving them the variance.

Mr. Lewis said that is the easiest thing to do, he wants the attributes of their property to be clean. He asked if the board has any comments or questions on the conditional use permit.

Mr. Gutoskey said just the traffic.

Since there was no further testimony, these applications were concluded.

BZA Motion 2019-34 – 7135 Aurora Road – Conditional Use

Mr. Lewis moved to grant the applicant the following variance.

1. A variance to the required minimum front yard setback of 100' to 62' for a variance of 38'.

Based on the following findings of fact:

1. There is a practical difficulty because from the time the shopping center and the parcel was built, Aurora Road in front of it was widened and it reduced their front yard setback as a result of the road widening project.

BZA Motion 2019-34 – 7135 Aurora Road – Conditional Use - Continued

With respect to the conditional use permit:

Mr. Lewis moved to grant the applicant a conditional use permit for a period of two years and make note that the building is increasing in size from the Ruby Tuesday building which was 5,700 sq. ft. to 7,500 sq. ft. but the 7,500 sq. ft. still complies with how the development was platted and they have not exceeded their limits.

1. With the conditional use permit they are consistent with the types of businesses that would reside in this retail shopping center with it being professional services, food services or the like.
2. The board would like to go on the record that it does have some concerns for the traffic entry point at the northwestern corner entry with traffic stacking out onto Aurora Road to get in line for drive-thru access of their tenants. If we observe continuing problems we reserve the right to readdress that with the applicant for a modification.

Mr. Gutoskey seconded the motion.

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

BZA Motion 2019-35 – 7135 Aurora Road – Signage

Mr. Lewis moved to grant the applicant the following variance:

1. A variance of 205 sq. ft. of signage which is a 31.4% increase over what is permitted.
2. The board notes that the applicant is entitled on the corner units to use two exterior wall signs.
3. The board also makes note in the record that it is the applicant's responsibility to manage the aggregate total of the signage and deploy it as they see fit for their clients and their tenants.

Based on the following findings of fact:

1. The reason for granting this variance is that this is a new building.
2. The board is applying the current zoning code and the square footage that they are entitled.
3. The board has taken into account that two of the units are corner units and the board has allocated additional square footage to accommodate those two businesses.
4. The board is exempting directional signs provided that they conform to 3 sq. ft. and do not have logos on them and those are not part of the aggregate total and those signs need to be located on the premises.

Mr. DeWater seconded the motion.

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

Since there was no further testimony, the public hearing was closed at 9:40 P.M.

Respectfully submitted,

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

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

Date: October 17, 2019

AUDIO RECORDING ON FILE

Bainbridge Township, Ohio
Board of Zoning Appeals
September 19, 2019

The regular meeting of the Bainbridge Township Board of Zoning Appeals was called to order at 9:40 P.M. by Mr. Todd Lewis, Vice Chairman. Members present were Mr. Brent Barr, Alternate; Mr. Michael Corcoran; Mr. Ted DeWater and Mr. Joseph Gutoskey. Mr. Michael Lamanna was absent. Ms. Karen Endres, Zoning Inspector was present.

MINUTES

Mr. Gutoskey moved to adopt the minutes of the August 15, 2019 meeting as written.

Mr. Barr seconded the motion.

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

APPLICATIONS FOR NEXT MONTH

Application 2019-2 by New Wembley LLC for property at 8345 Woodberry Boulevard -
Continuance

The applicant is requesting a review and renewal of an existing conditional use permit. The property is located in a R-3A District.

Application 2019-6 by The Set Fitness, LLC for property at 7207 Chagrin Road -
Continuance (Motion to Dismiss)

The applicant is requesting a substitution of a non-conforming use. The property is located in a PO District.

Application 2019-36 by Bronwyn Beard Gartland for property at 8095 Darby's Run

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

Application 2019-37 by Michael and Kristin Moore for property at 8740 Tanglewood
Trail

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

Application 2019-38 by Tim McCaskey for Cindy and Stephen Charles for property at
17310 Wood Acre Trail

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

Application 2019-39 by City of Solon for property at 7119 Jackson Road

The applicant is requesting a conditional use permit for the purpose of establishing a public dog park. The property is located in a R-5A District.

The Bainbridge Township Board of Zoning Appeals set a public hearing on the above applications for October 17, 2019 at 7:00 P.M. at the Bainbridge Township Community Hall, 17826 Chillicothe Road, Bainbridge Township, Ohio and unanimously resolved to request the Bainbridge Township Board of Trustees to issue a purchase order for legal advertising.

Since there was no further business, the meeting was adjourned at 10:00 P.M.

Respectfully submitted,

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

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

Date: October 17, 2019