

Bainbridge Township, Ohio  
Board of Zoning Appeals  
September 20, 2007

Pursuant to notice by publication and certified mail, a public hearing was called to order at 7:39 P.M. by Mr. Michael Lamanna, Chairman. Members present were Mr. Todd Lewis, Mr. Mark Murphy and Mr. Mark Olivier. Mr. Donald Takacs was absent. The following matters were then heard:

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.

Application 2007-36 by Arnold (Andy) Leeb for property at 8450 E. Washington Street

The applicant is requesting a conditional use permit for the purpose of establishing a veterinary hospital. The property is located in a CB District.

The zoning inspector's letter dated September 13, 2007 was read and photos of the site were submitted.

Dr. Arnold Leeb, applicant and Mr. Dale Markowitz, Attorney for the applicant were present to represent this application.

Mr. Markowitz testified that he is here on behalf of Dr. Andy Leeb and said that Dr. Leeb is a Doctor of Veterinary Medicine practicing next door at the Bainbridge Commons right now and has been there for many years. He said Dr. Leeb had property across the street from the town hall that he had hoped to be able to get approval from this board to make some changes and put his office there, but that got turned down and he is now selling that building to the township so he is now going to move to the plaza on E. Washington Street in front of the Heinens area. He presented some GIS maps to the board and said the board will have an idea of where the building sits on the property with the maps. He said the building already exists and the Galucci family has owned the building for some time and his client is leasing the property from the current owners which is Concord Properties and they have a memorandum of lease that was recorded with Geauga County in August and his client is undertaking changes to the premises so that he can get in fairly quickly as soon as this conditional use permit is issued. He continued by saying that the property is in a convenience business district and a veterinary hospital is a conditional use in that district and it surprised his client and himself when they realized it but it is a reality so they have to come before this board for a conditional use permit. He said the only issue they are aware of is it is pretty apparent to see that the building is not 100' from any property line and couldn't possibly meet a 100' setback from the rear line or the two sides or the front that is on E. Washington so that would be the one variation that would have to be given from the general standards for conditional uses, other than that they obviously comply with everything else.

Mr. Markowitz added that this is a veterinary hospital that Dr. Leeb has been operating in the township, he is just simply moving from one building to another and it is interesting that the building he is in now, the Bainbridge Commons is not 100' from any property line either but the type of use he has is not the kind of use that typically fits within the spirit of what that 100' setback is calling for, it is for more intensive conditional uses so it is really no different from a doctor or a dentist or psychologist or any other professional providing services. He said he has the memorandum of lease and he would be happy to answer any questions the board has and noted that Dr. Leeb is present to answer any questions. He said they are asking that the board approve the conditional use permit and waive the thirty day provision on approving the minutes so they can get the permit issued and finish up the work and get the occupancy going very quickly so that his client can move into the building.

Mr. Lamanna asked how many people will be there at any one time in terms of customers.

Dr. Leeb said they space their appointments so there are usually no more than two or three.

Mr. Lamanna asked if there is plenty of parking.

Dr. Leeb replied yes.

Mr. Lamanna asked if there will be any outside kennels etc.

Dr. Leeb replied no.

Mr. Murphy asked how many units or portions of that building are going to be used.

Mr. Markowitz said for the veterinary hospital there are two.

Mr. Murphy said the two on the left that was the bakery.

Mr. Olivier asked if there will be any boarding of animals overnight.

Dr. Leeb said when they do surgical procedures, sometimes animals stay overnight, but they don't profess to be a boarding kennel with outdoor runs, this is a private medical service.

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

Motion BZA 2007-36 - 8450 E. Washington Street

Mr. Lamanna made a motion to grant the applicant a conditional use for the purposes of establishing a veterinary hospital and the following variances:

1. Variances with respect to the location of the building, the rear yard, side yard and front yard to that which currently exists for the structure in which this conditional use will be located.

With the following condition:

1. The board does note that as a conditional use, all of the general provisions in Chapter 117.13 applicable to conditional uses will apply.

Based on the following findings of fact:

1. This is a permitted use under condition.
2. It is consistent with the other businesses there.
3. The traffic is consistent with that of other retail locations.
4. It does not create any undue issues with respect to noise pollution or other situations that adversely affect the neighboring businesses.

Mr. Lewis seconded the motion.

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

Application 2007-37 by Archer Sign Corporation for Buffalo Wild Wings Grill & Bar for property at 18865 Giles 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 13, 2007 was read and photos of the site were submitted.

Mr. Jerry Archer of Archer Signs was present to represent this application.

Mr. Lewis asked Mr. Archer if he has a letter of authorization to represent the client.

Mr. Archer testified that he can provide that tomorrow and said the corporate office is in Minnesota but he can provide something tomorrow. He continued by saying that they are asking for a second sign because of the uniqueness of the property so they feel a second sign is necessary.

Mr. Lewis asked if the primary sign is going on the front center.

Mr. Archer said that is where their challenge is, they would like one on the front center and then the one on Aurora Road. He explained the locations of the proposed signs and said this one will be on the front on Aurora Road on the east side and the question is the height on the front wall sign to get people to see where they are from Aurora Road.

Mr. Olivier asked if it will be facing Home Depot.

Mr. Archer said it is for the traffic looking for us on Aurora Road.

The board reviewed the variance request and discussed the square footage of the signs requested and the directional signs.

Mr. Frank McIntyre, Zoning Inspector testified that the height is 24' 1" above finished grade.

Mr. Lamanna said the architectural prints look like it is 24' with a 9' variance.

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

Motion BZA 2007-37 – 18865 Giles Road (Buffalo Wild Wings Grill & Bar)

Mr. Lamanna made a motion to grant the applicant the following variances for the purposes of having a second wall sign on the building.

1. A variance from the maximum permitted wall sign of 50 sq. ft. to 73 sq. ft. for a variance of 23 sq. ft.
2. A variance from the maximum height on the front of the building from 15' to 24' for a variance of 9'.
3. A variance from the maximum height on the south side of the building from 15' to 16' for a variance of 1'.

Based on the following findings of fact:

1. The height variances are granted because they are consistent with the other signage within this shopping center.
2. It is also consistent with the architectural structure of the building and is in an appropriate placement on those buildings.
3. With respect to the second sign, it is granted because the building is located internal to the shopping area and is located on the intersection of two internal streets within that shopping area and is reasonably necessary so that people can identify the building when they are coming from opposite directions.

Motion BZA 2007-37 – 18865 Giles Road (Buffalo Wild Wings Grill & Bar) - Continued

4. With respect for granting the additional square footage is the actual sign part of the sign on the side of the building when measured separately is actually less than 50 sq. ft. so it is not contrary to the intent of the zoning ordinance.
5. The size and height of the letters is reasonable given the placement and location of this building and the distance to the adjacent streets.

Mr. Lewis seconded the motion.

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

Application 2007-38 by Gary Spiros for property at 9233 Wilderness Passage

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

The zoning inspector's letter dated September 13, 2007 was read and photos of the site were submitted.

Mr. Gary Spiros was present to represent this application.

Mr. Lamanna stated that the applicant is requesting a variance from the side yard setback from 50' to 39'.

Mr. Gary Spiros testified that he wants to replace his existing 8' x 8' shed with a larger shed and the variance is for the location of the placement and the rationale is that the back of the property in Lake in the Woods is very poor soil and it gets a lot of ponding in the back so it would be problematic to put it in the back.

Mr. Lamanna asked if the existing shed is in a different location or if it will be in the same location.

Mr. Spiros said it will be in the same location but a larger size, the existing is 8' x 8' and the new one will be 12' x 16'.

Mr. Olivier asked if the existing one is tucked back in the woods and if the additional square footage will come out into the yard more.

Mr. Spiros said no it will be tucked into the woods and especially in the summer it cannot be seen from the street it is pretty much surrounded by woods and we are the last house on the culdesac and the property on the other side is a field off of Snyder Road and the house is extremely far back and it is a horse farm and that field has water issues and they have been hauling in dirt and raising that field so the water starts coming toward his property so he would like to put it on a higher elevation. He added that he recently had the property surveyed by Gustoskey and Associates and had water samples done and the overall property is very flat. He showed the board a photo with an example of the flooding in the back.

Mr. Olivier asked if the existing shed had a variance.

Mr. Spiros said the shed was already there on the property when he purchased it.

The board discussed the location of the existing shed.

Mr. Lamanna asked if the existing shed is behind the front line of the house.

Mr. Spiros said yes it is behind it.

Mr. Lamanna said it looks like it is in front of the house but it may be the angle of the picture and asked if the new shed will be in the same spot as the existing shed.

Mr. Spiros said yes, they will remove it and put down the new one but because it is deeper, it will sit back a little further. He explained the location of Snyder Road and the nearest house.

Mr. Lewis said if it is taken out of the woods it would be seen from the street but his preference would be to relocate it to another portion of the property.

Mr. Spiros said but there is the water problem there.

The board discussed the water problems on the property.

Mr. Spiros explained that the neighbors have an eight acre property and they would have to split it into five acres to build on it and they use it to exercise horses and practice polo so it is his understanding that they are not planning on subdividing their property but to keep it the way it is.

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

Motion BZA 2007-38 – 9233 Wilderness Passage

Mr. Lamanna made a motion to grant the applicant the following variance for the purposes of constructing a 12' x 16' shed as shown on the applicant's application for this variance.

1. A variance to the minimum side yard setback requirement of 50' to 11' for a variance of 39'.

Based on the following findings of fact:

1. A practical difficulty exists because the applicant has difficulty with a large portion of the property with wetness and the placement of this shed in this particular location allows it to be placed into the existing woods where it will not be visible from the street and to move it closer to the house would make it visible from the street alongside the house.
2. Because of the situation with the neighboring property, houses on that property would be fronting on Snyder Road and would be located a large distance from this shed so they would not be adversely affected by the placement of the shed at this location.

Mr. Lewis seconded the motion.

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

Application 2006-33 by Voproco Properties Limited for property at 16941 Savage Road -  
Continuance

The applicant is requesting a conditional use permit with variances for the purpose of constructing single family cluster homes. The property is located in a R-3A District.

The zoning inspector's letter dated September 13, 2007 was read and photos of the site were submitted.

Mr. Lamanna stated that this is a conditional use permit with multiple variances for the purpose of creating a 34 unit development not in compliance with Chapters 101, 117, 131, 139, 135, 159, 160 and 161 of the Bainbridge Township Zoning Resolution.

Mr. Gary Werner, Berns, Ockner & Greenberger, LLC, Attorney for the applicant; Mr. Mark Iacona, Developer, Preferred Development; Mr. Ed Janoviak, Landsong Engineering, Preferred Development Inc.; and Mr. Thomas Vokas, Voproco Properties Limited were present to represent this application.

Mr. Charles T. Riehl, Attorney was also present to represent Bainbridge Township.

Ms. Mary Bolas-Dietz of Kathryn Kinney Foxx Court Reporters was in attendance for this application.

Mr. Gary Werner testified that he is with the Law Firm of Berns, Ockner and Greenberger and he is here this evening with the applicant Voproco on this development and added that this is an amended plan, the original application was about a year ago but it has been amended since then and they are here tonight to discuss this amended plan and some of those features and he has met with the counsel for the township and they expect that they will come back to the next meeting and dig into the standards of the township resolution but for the time being they are here to go over the plan, answer questions and identify the specific variances that relate to this plan. He then introduced Mr. Mark Iacona from Preferred Development.

Mr. Mark Iacona of Preferred Development testified that he is the developer for the project and said the plan was modified from the last submission which was 49 lots and now they are proposing 34 lots on the site and since the last submission they have done a wetlands delineation and they retreated from those areas and obviously most of those were down in the valley area so they are proposing 18 home sites on the west side of the site and 16 on the east side and they range from about seven tenths of an acre to just under two acres. He said they are proposing sanitary sewer and public water that is being brought in from the easement in the valley and referred to the map where it goes up to the home sites. He said the code calls for 25% of the site to be dedicated green space and they comply with that, it is a shade over and any areas that aren't dedicated green space that touch onto the perimeter of the property, they have built into the lots a 25' buffer area that will remain natural so there will be a built in buffer around the exterior of the project also. He said there will be 250 linear feet of road and will be dedicated with a 60 right-of-way and no curbs. He added that there is an existing house on Savage Road and it is marked on the plan as being removed. He said they tried to design something that is close to what is zoned there, the engineer did a great job as far as trying to design something that compliments the surrounding subdivisions and still be a project that is doable so the variances they are requesting they are asking from density and the other issue is under cluster zoning, it calls for a 100' setback for any buildings from the perimeter of the property. He said the cluster zoning calls for identifying the footprint of the homes on the lots but because this plan calls for custom homes, they don't have a set plan they could refer to, to determine the actual setbacks from the perimeter in order to reflect the actual variance from the setbacks so what they did was they went to the coverage requirement where 15% of the 50 acres is allowed for coverage on the property that includes the road, house, driveway, patios etc. so they took that 15% and backed out the roadway as far as coverage and what was left was divided by 34 lots and it gave them a per lot coverage allowance which comes to 8,300 sq. ft. so they based their setback variance requests on that. He said the zoning inspector went ahead and measured off of their sample lots, the lots that they have on there that were meant for inspection purposes to show that the house will fit on the lot but being all custom, they did not have a footprint that was actually the house that they are going to use.



Mr. Iacona said the other variance was for the side yard setback and the code calls for 30' from the side lines but they are requesting a 10' variance from that to 20' from the side lines and they feel strongly that they will be able to meet that especially with some of the topography on the east side of the street, it makes for some difficult home sites and some of them are a bit challenging.

Mr. Werner asked Mr. Iacona to talk about some of the variances that were eliminated from the last time.

Mr. Iacona said especially on the west side of the site there were 44 home sites which called for quite a few variances, the 50' setback variance was one, the side setback variance was another one, the setback from the roadway was another variance along with the density variances so when they devised the plan they looked at ways to minimize the number of variances that they have to ask for with this plan, they tried to keep to a minimum.

Mr. Werner asked Mr. Iacona to explain the effort to minimize the variances that affected the distribution of the lots.

Mr. Iacona said the prior plan was heavily loaded on the west side but when they started laying these out and aware of the setback requirements, to keep those variances to a minimum, they had to spread the home sites out with 18 homes on one side and 16 on the other to keep from coming back and asking for additional variances from the original plan.

Mr. Werner asked Mr. Iacona to explain the specific information about the resulting perimeter setbacks that are required for the 34 lots.

Mr. Iacona submitted a document to the board and stated that these are the actual variance requests for the setbacks they are asking for as opposed to the report prepared from the township.

Mr. Werner stated that they also have an updated report that was prepared by D. B. Hartt and he had prepared a report with respect to the 49 unit plan and has updated that report to correlate to the 34 unit plan and submitted copies of the report to the board members and added that this is generally the topic that they will be going over at the next board meeting. He added that he will answer any questions that the board may have.

The board reviewed a copy of the variances requested and the D. B. Hartt report.

Mr. Charles Riehl, Attorney for Bainbridge Township testified that he is with the Law Firm of Walter and Haverfield and he is here to represent the township trustees and that they have had discussions with Mr. Werner and they do understand that this is a very significant application and believe that it will have a significant impact on the neighborhood.

Mr. Riehl continued by saying he believes that the application has some additional material on it other than the preliminary August 16<sup>th</sup> application and what he would suggest to the board is to keep the public hearing open until the next board meeting and at that time they would like to have the opportunity to present additional evidence so the board can consider this application and it is his understanding that all of the people will still be here at the next meeting on October 18<sup>th</sup> and they will be open to answering questions. He added that the board would like to here from the residents this evening also.

Mr. Lamanna said first he will let the board members ask any questions they may have on the plan and will allow any of the interested people to comment or ask questions. He referred to the plan on the east side and asked if there is another riparian that runs through the east side.

Mr. Iacona said there are actually three riparian areas that they identified.

Mr. Lamanna said those are the corridors that are shown with a dark line and the two other lines.

Mr. Iacona said yes, the setbacks.

Mr. Shane Wrench, Assistant Zoning Inspector, submitted a color map to the board to review.

The board reviewed the map.

Mr. Lamanna asked if the parcel that is to the northeast is the piece that is owned by Chagrin Falls Village.

Mr. Iacona replied yes.

The board discussed the map, the ravine area and the existing properties.

Mr. Olivier asked if it is a landlocked parcel.

Mr. Iacona said it looks to him like a landlocked parcel.

Mr. McIntyre said it is landlocked.

Mr. Lamanna asked if Chagrin Falls Village has been approached about acquiring that property.

Mr. Thomas Vokas, applicant, testified that he did approach them, but it is not for sale.

Mr. Lamanna asked what the Village is going to do with it.

Mr. Vokas said he really believes that it is there for their green space and based on the Village Council down there they want to retain it and it is his understanding that having green space in a different township, they can still count it as part of their entire green space for their city so by them owning it in our community, they are able to have additional green space in their city.

Mr. Lamanna asked what the existing lot size is in the Tulip Lane subdivision.

Mr. McIntyre said it is about 1-1/2 acres.

Mr. Steve Schwin of 8340 Tulip Lane testified that they are between 1-1/2 and 2 acres generally.

Mr. Olivier asked if the extended road is in a platted subdivision.

Mr. McIntyre said yes, Tulip Lane.

Mr. Murphy said he had a question about the new information provided to the board and asked if the setbacks are to replace page two with the variances and if it is an update.

Mr. Iacona said yes and referred to the house footprints.

Mr. Lewis asked if the variances are based on an assumption of 50' to the rear line or are they based on the assumption of 100' to the perimeter line.

Mr. Iacona said 100' to the perimeter.

Mr. Olivier asked if this is a cluster development.

Mr. Iacona replied yes.

The board discussed the proposed lots and riparian setbacks.

Mr. Ed Janoviak of Landsong Engineering, Preferred Development testified that all of the lots are buildable provided they get the variance from the 100' setback and as far as the riparian buffers, they would obviously have several stream crossings and according to the Army Corp of Engineers, they are allowed to have 200' of impact on a perennial stream and 300' of an ephemeral or intermittent stream and they would definitely be under those requirements, they would have two main road crossings on a perennial at 60' each and there would be several driveways but if they were added all up it would still be under what the Army Corp of Engineers would allow them for the project.

Mr. Lamanna said one of the purposes of cluster is to preserve these types of things and some of this arrangement here, in his view, does not look like it is really doing that where some of the houses are placed with a driveway running across two riparians.

The board reviewed the site plan submitted.

Mr. Lamanna opened up the public hearing for the audience members to speak.

Mr. George Quay of 17075 Savage Road testified that the parcels they are looking at on a smaller scale on Savage Road are right here (he referred to a map). He showed the board the location of his house, his sister's house and his daughter's house and said they are very close to what they plan to do here. He said he sees on the schedule that this is a continuance and was not aware that there was a prior meeting on this.

Mr. Lamanna said it was held a year ago and continued.

Mr. Quay said for them to continue to emphasize that they came down from 48 houses to 34 is a slap in the face to the community and what they are trying to do instead of really, really, really breaking our laws, is just really, really, really breaking them. He continued by saying that speaking from the Savage Road side and he can't speak from the other side, this area here (he referred to the depth to bedrock map) and said this is a map of depth to bedrock and zoning is based not only on tie-ins to sewer and water but also the environment on which something is being built. He said the depth to bedrock here is very shallow and at his house, his sister's house and his daughter's house, they hit bedrock immediately with their basements so if you look at these two lots as 100% covered with trees and you go in and remove those trees and the root systems that go with them and the dirt that goes with that, you are damn near on bedrock therefore you have a run-off problem. He said in looking at their plan as he came in the other day, he does not see anything that addresses run-off, he does not see any areas that are pond oriented and asked if the plan is to put all of the run-off to McFarland Creek which is down in the riparian area and added to that asphalt and basements for 34 houses, you have taken up an additional amount. He said in the spring, if you are up to E. Washington Street when there is a heavy rain, E. Washington Street floods and that is McFarland Creek which comes down to our backyards and the whole valley tends to flood at that point in time and if you add to it the additional run-off from the Savage Road side as well as the Tulip Lane side, you have an enormous problem. He said as you get down to Chagrin Road there is a bottle-neck in McFarland Creek, you are forcing an enormous more amount of water into that bottle-neck by having that run-off and additionally on the other side of Chagrin Road is the Gloden house, there is a dam there and that dam is now filled up with silt from the run-off from the McFarland Creek sewer district when it was put in so that is going to cause that house additional problems of major size because that front yard floods every spring. He said most of the houses on Savage Road if not all of the houses live off of wells, not one of us is tied into the public water system and if you take all that water that would normally perk into the ground, and put it down into the valley, what is that going to do to our well systems and asked are we going to have water or is it going to affect our well systems.

Mr. Quay continued by saying additionally he ran into Mr. Alan Halko (Township Road Superintendent) at Heinens and he was talking extensively about what damage has been done to Savage Road because of the construction of the park. He asked what additional damage will be done when the heavy loads that will be taking lumber off the property and building and cement trucks and asked what additional cost to Bainbridge will it be and as a taxpayer that is a concern. He said he tried to do some research on Voproco's company background in development and he can't find anything and he looked very hard and asked if this company has ever developed as much as a single house and asked if that is a concern of the board, he does not know. He said we are looking at the last natural piece of beautiful property on the western side of Geauga County and to turn that over to a non-experienced builder, are we putting ourselves in a position that would never be finished and asked if that should be bonded, he does not know, he is asking that as a rhetorical question. He said most all of the houses on Savage Road are five acre or more parcels, this is a three acre zoning area and we are trying to break that. He said that is the end of his presentation and his concern is the bedrock situation that he has run into and the rest of his family has, the run-off into the valley and the fact that they have tie-ins really is not the major problem here, you are clustering a bunch of homes in a very, very fragile area. He referred to the house in the front of the property on Savage Road and said he was talking to Fire Chief Phan and the house was offered to the Bainbridge Fire Department for practice to come in and burn the house down. He said Mr. Phan turned the offer down because of the amount of asbestos that is in the house and he did not want to subject his firemen to that risk. He said he would ask the board that no matter what is done on that property, it should be restricted on the way the house is taken down, it should be taken down in such a manner that follows the guidelines of asbestos removal and added that he has two grandchildren that are within 100 yards of that house and he would hate to see an asbestos problem.

Mr. Murphy asked if this is a five acre zoning area.

Mr. Riehl said he believes the zoning is three acres.

Mr. McIntyre said it is zoned R-3A.

Mr. Ron Miner of 8431 Tulip Lane testified that he is a fifth generation Bainbridge resident, his daughter and her children live in the house where he grew up and said he wants to give his perspective on this situation. He said the Tulip Lane development has managed to retain to some extent the rural character of the township and he and his neighbors highly value that.

Mr. Lamanna asked Mr. Miner which side of Tulip Lane he lives on.

Mr. Miner said he lives on the south side of Tulip Lane four houses from the entrance. He continued by saying that he thinks it would be extremely inappropriate to cluster homes and would encourage the board to retain the three acre requirement absolutely so that if a development were put at the end of the street and this was the character of the neighborhood, the thought that from the builder's perspective that their development is consistent with the neighborhood is completely ludicrous.

Ms. Alice Morse of 8249 Tulip Lane referred to the bill by Senator Grendell and testified that if the new bill goes through our township zoning will have the authority to consider the aesthetic quality of the neighborhood and that is what is going to be affected here, the aesthetic qualities of Tulip Lane and Dalebrook. She continued by saying they purchased their three acre property in Dalebrook in 1966 and lived in the home they built, third from the end of the road in the culdesac, since that time. She said she believes there are about 25 homes inhabited on Tulip Lane and additional on Eaton Drive and some facing Rt. 306 and it is a quiet and peaceful neighborhood. She said many people walk or jog on this road and therefore it would be very dangerous to have more cars and more traffic and the end of the culdesac is densely wooded with a ravine, it is home to deer and wild turkeys. She said if 16 houses are built on this land and necessitate a road to cut through to Tulip Lane the whole character of the neighborhood will drastically change. She said you can imagine 30 or more cars going everyday and she begs the board to prohibit a road being put through to Tulip Lane, to Dalebrook Estates to change that neighborhood and asked to please consider the detrimental impact of traffic this would be to those of us who live here. She said if the property were developed according to township zoning, only 16 houses could be built thus eliminating the road to Tulip Lane because the exit would go to Savage Road only.

Mr. Tom McGlenn of 8386 Tulip Lane testified by saying as Mr. George Quay so eloquently put it he basically stole his thunder as well because the same concerns that he has on the Savage Road side of the property apply to the Tulip Lane side of the property as well. He said in addition to changing the entire character of the neighborhood he is also concerned that if two culdesacs back up to one another and if there is an engineering way to bridge that ravine that would be something that someone could do at some period of time in the future and it would be a further impact on the environment. He said the other thing is he does hope the board keeps the public meeting open to the next meeting so the residents and other interested parties have a chance to look at the documents they presented the first time this evening.

Mr. Lamanna said the board will allow for public comments at the next meeting as well so people have the opportunity to see everything and all the board would ask to the extent that people can present their comments now and the board would just ask that the comments are not repeated over again the next time of what was already said at this meeting but if someone has a new observation based on new information or additional information that is presented, the board is happy to entertain any comments on that.

Mr. Joe Oberle of 8197 Tulip Lane testified that he lives in the last house on Tulip Lane on the south side. He asked what will happen to the existing culdesac, will there be two culdesacs, will the culdesac be removed and said he is really concerned about the 10' setback between the properties and added that they are pretty small lots they are pretty close at 10' to 20' between houses. He referred to the 25' setback around the perimeter and noticed that the lot would abut his property, and said he knows the houses on the site plan are placed just for positioning but with that house placement, it would actually be in front of his house so he is concerned about that. He said Dalebrook is an association and that is included in their deeds and asked if these new homes will be part of that with the same deed restrictions.

Mr. Lamanna said that roads are public rights-of-way, once they are dedicated, they belong to the township and anybody has the right to use them and the way they are constructed is there may be culdesacs on them but they are brought to the right-of-way, to the edge of the property and the reason for that is so they can be extended through to adjacent properties and nobody has any control over the extension of those roads.

Mr. Oberle asked what will happen to the existing culdesac.

Mr. Lamanna said the existing culdesac from this map looks like it belongs as part of the right-of-way of this street so typically when the road is extended through they take away the culdesac and just have the street and told Mr. Oberle that he would probably end up with a large grassy area in front of his house and instead of 10' – 20' between the property line and the street that people think of as part of their lot, there would just be a bigger stretch. He asked Mr. Oberle if he has a plot plan for his lot that shows the dimensions and the location of his house like a location survey.

Mr. Oberle said he thinks it is the same one that is filed with the county.

Mr. Lamanna said it would be helpful to the board if Mr. Oberle could provide a copy of that so the board can see exactly where his house is relative to the boundary line etc. and added that it would be very helpful.

Mr. Oberle said he does not have one when they built the house because he is the second owner.

Mr. Lamanna asked Mr. Oberle to provide the office with a more accurate copy for the record, it would be helpful to the board.

Mr. Oberle said he can also provide a copy of the deed restrictions.

Mr. Lamanna said it is a separate development and although it is on the street there would be nothing that would cause them to be a part of that.

Mr. Oberle said they may request that they do.

Mr. Lamanna said it may be possible for the developer to say all of the houses in this area have to become part of this but that would probably not be something the board could mandate and added that the board would have to look into that but he has some questions on whether or not that would be in the board's authority to make something like that a condition. He also said that the Dalebrook Association would have to decide if they want those additional houses and assumes that there are some common areas in the front that are maintained etc.

Mr. Oberle said he is not asking for consideration.

Mr. Lamanna said that Mr. Oberle is obviously one of the most affected people here because he is an adjacent property owner and the impact on him is the greatest, so that is why the board is interested in where the house is located etc. so the board can see how this will impact him regarding the buffer zone etc. and added that they are not providing much of any buffer between Mr. Oberle and his neighbor across the street on this property.

Mr. Lewis asked Mr. Oberle if his neighbor directly across the street from him is here tonight.

Mr. Oberle replied no.

Mr. Steve Schwin of 8340 Tulip Lane asked if there is a planned name for this proposed development and if there is signage and if there is anything in the works for this.

Mr. Lamanna asked if this development will have a name.

Mr. Iacona said they have not settled on a name but there would be some designation on the new part of the subdivision.

Ms. Sally DeAngelo of 8363 Tulip Lane asked if the developers are planning on having a second culdesac and closing it off or if they are planning to have a through way to Tulip and if that has been established.

Mr. Lamanna said no, it is not going to go all the way through, Tulip Lane would just be extended from the existing culdesac which would just extend on maybe another ¼ mile and there would be a new culdesac at the end of it, it would not connect through to Savage Road.

Ms. DeAngelo asked if there would be a cut-off.

Mr. Lamanna explained that there would be two culdesacs from opposite sides and they are separated by quite a distance with the stream going through and the plan now is there would be no connection between the two parts.



Mr. Quay said he thought there would be somebody here from the Bridgeway area because Mr. Gus Saikaly, Geauga County Water Resource Department, is currently having meetings with them regarding the problems they are having with their well systems and that is throughout the whole community of Bridgeway so again this is going to put potential damage on the well structure. He said also it is his understanding that there are somewhere around 160 – 170 homes for sale in the Bainbridge area and asked do we need to add another 34 to that, but of course that is the developer's problem.

Mr. Steve Schwin said all of the construction for this side has to come down Tulip and asked if there is any consideration for road repair because that is a lot of woods coming out and a lot of material going in and we are a sidewalk-less community, a country living type of community with a lot of kids a lot of elderly walk so this is going to pose a safety concern in the neighborhood. He said he lives at the intersection of Eaton and they currently don't have a stop sign there at Tulip Lane and it becomes a safety concern for his children because it is not a very wide road or big road.

Mr. Lamanna said the only way they will be able to get access at the site for the construction of the road is going to be down Tulip Lane but we are looking at 1,000 – 1,200 feet of road and 20 some houses and somebody is not building a Market Place at Four Corners shopping center down here either.

Mr. Schwin asked if all of the woods will be stripped out of there.

Mr. Lamanna said there is a larger area of riparian and wetlands in there that they will not really be going to be able to touch anyway.

Mr. Schwin said a lot of communities with new developments basically turn into a cornfield without corn but with Dalebrook if you have been in there, they left a lot, everything they possibly could so his concern is at the end of the street you will come to an open field with houses.

Mr. Lamanna said that is certainly a consideration regarding what kind of change of character there is going to be with whatever development ultimately goes in there to make sure that it is reasonably consistent with the existing development so you don't have something where you go from a heavily wooded area to a cornfield although they are quite a bit restricted if you look at the color map we have.

Mr. Schwin asked for a definition of riparian.

Mr. Lamanna said a riparian is basically a stream being continuously flowing or intermittent and there are regulations in the township that you are not allowed to develop within 25' of riparians and offered to the audience anyone who would like to look at the map in color showing where the riparian and wetland areas are.

Mr. Schwin asked if the Army Corp of Engineers has some sort of say on this.

Mr. Lamanna said yes, the Army Corp of Engineers has regulations regarding affecting certain kinds of streams and any wetlands and they are allowed to affect a certain amount of those wetlands but beyond that they would have to actually obtain a permit from the Army Corp of Engineers to fill in or damage the wetlands and they have all kinds of requirements if someone wants to do that. He asked what kind of arrangement has been made regarding retention ponds or how the drainage is going to be.

Mr. Iacona said actually they submitted a plan that shows it and for some reason it was deleted off, but it shows two water quality ponds on either side of the stream where water comes both sides and funnels down to the water quality ponds and released downstream to McFarland Creek.

Mr. Lamanna asked how that will be done and if they are planning on having storm sewers on the streets.

Mr. Iacona referred to the engineer.

Mr. Janoviak said you would want to run a storm sewer down the right-of-way on each street and through a parallel property line into the water quality ponds and those would be designed per EPA requirements and they would also act as retention ponds where you can't release anymore water than was released prior to us being in there, it would be just like it was when it was wooded and they would also have to store enough sediment for a period of time that would not be released in the streams either and once they fill up to a certain point the developer would be responsible to have someone come in and clean those ponds of that sediment so they can fill back up again so that the stream down through the middle would get less silt than it gets now and would get the same amount of rain water at the same rate that it gets now.

Mr. Lewis asked if that clean out responsibility then transfers away from the developer when all of the lots are sold.

Mr. Janoviak said that could go either way, sometimes the developer will do that based on what the commission wants to see so he can't answer that question that is more of a development question.

Mr. Lewis asked if he is also talking about collecting rain water off the downspouts and the houses, or just off the lots.

Mr. Janoviak said that all goes into the storm sewer although he has seen something in the paper that was quite interesting about rain barrels, instead of going into the storm sewer it is like a little retention basin where it slowly goes into the storm sewer and slowly goes into a water quality pond.

Mr. Lamanna said they are encouraging people to collect the rain water and then use it to water their property.

Mr. Oberle asked how deep the ponds will be.

Mr. Janoviak said they would have to be designed but typically they are 8' to 10' deep.

Mr. Oberle said there is a high pressure sewer line that runs down the easement.

Mr. Janoviak said they know where that sewer line is and explained the location of the proposed ponds and they will definitely stay away from that sewer line and he understands the concern.

Mr. Schwin said it goes back to the first gentleman's position that right now all that water makes it into the wells and surface water from the road, driveways and rooftops will flow into a retention basin and flow into the creek that flows in and around all of the wells and there has to be some kind of impact on all of the wells down there because that is where the water is going and will no longer be doing it.

Mr. Lamanna said they are limited to a total coverage of about 15% of the land so in theory there will still be 85% of the land that is available for recharge. He said the other interesting question is, it was said the bedrock is 5' below the surface there or very close to the surface so you are not getting a lot of recharge in that area if the bedrock is that high because there is no way for that water to penetrate through very easily so that is not going to be a very good recharge area if you have got outcropping bedrock in that area and it sort of works opposite to each other if you have bedrock that high it is not going to be a very good recharge area for the aquifers anyway.

Mr. Murphy said that is all Sharon conglomerate sandstone and it is the best aquifer and all of the springs that are below Catsden Road come out of the Sharon sandstone which dives from there back to the east towards Pennsylvania so in fact all that sandstone absorbs water and it is all cracked and fissured and it is actually some of the best spring water.

Mr. Lewis said the board is sensitive to those wells.

Mr. Janoviak said he had a comment regarding the run-off issue and the particular wooded areas, steeper slopes that have a very poor run-off factor which means when it rains there it does run off rather quickly even though it is wooded because there is not a lot of vegetation below the tree line on the surface so if we are only allowed 15% coverage area all we are allowed to do is plant grass, Bermuda or something like that, that has a very good absorption ratio which will more than offset that 15% of our covered valley. He said typically when you take away on slopes like this and you put one acre density, you get more absorption into the ground than you had before.

Mr. Quay stated that he has lived in that area for about 35 years his sister about 55 years and when they first moved on the property the plan that they had on the back of theirs was to dam McFarland Creek and make a lake and in the construction of that lake they lost a bulldozer, it is very soft land down there and you can take his word for it or you can talk to the Naragansett Group that built Bridgeway to find out the problems they ran into in putting the bridge across that area in the low rocky area. He said his question is if they put two retaining ponds in that area, what happens if they don't work and if they can't hold water because of the rocky conditions of the land around it, what is the back up plan at that point when you have at the top of the hill all of that land covered with houses so they have created something down in the valley that you base your zoning upon that didn't work. He asked the board to research with Mr. Saikaly the water issue.

Mr. Lamanna said they have to engineer an acceptable plan for soil and water.

Mr. Quay said they need to test the soil samples down there to find out if it is going to retain the water and he does not think they can do it.

Mr. Janoviak said the one pond is up on the hill no where near the ravine he is speaking about and if by some chance this pond is not able to hold water due to sandy type soils, they would have to line it and provide a clay buffer and they would have to engineer it correctly and the EPA and Army Corp of Engineers would watch us to make sure we do it right so it would have to be designed correctly to meet the residents' concerns as well as the township's. He said he did work for the gentleman that put the sewer line in and added that along major streams you will have bad soils.

Mr. Oberle asked if the board has visited the property or before the board makes a decision if they will visit the property and walk it.

Mr. Lamanna said the board can if they decide to if they think it is necessary.

Mr. Oberle asked it that is typical or not typical.

Mr. Lamanna said he has been down there, he has not walked the whole property, he has been down to the end of Tulip Lane and he has walked down from the end of Tulip Lane and he has been down on Savage Road and has walked along Savage Road, he has not traversed the entire piece of property but he has at least tried to get a feel for the outer limits of which, where the people are being affected the most, at the edges of it, not so much in the middle and those are the areas he is most interested in seeing what the property looked like and what the adjacent properties look like and how close the houses were etc. and said the board often does that and added that they have lots of photographs and aerial photos but sometimes they do find it useful to go out and very often the board members will go out and at least get a better feeling because pictures are often not fully descriptive of what is there, but he himself has been out to look at several parts of the property to try to get a feel of what things look like especially on Tulip Lane.

Mr. Iacona said for verification regarding a couple of comments, there is bedrock in the area but it is not very conducive to septic systems and they are doing sanitary sewer and water so if there was some well problems such as the Bridgeway project, we won't further impact, they will be operating city water throughout the subdivisions so that won't be an issue for us or nor will we add to that issue if there is one. He said the issue of percolating into the ground, septic also perk into the ground so we won't be contributing to that either, it will be a sanitary sewer project so it may alleviate that in terms of that area. He said the one gentleman talked about Voproco, who is the owner of the property currently, he is not sure how long, maybe nine years, but Preferred Development will be developing the project and has been around for about 22 years and has developed over 30 projects so in that regard as far as a rooky doing that work, we have a vast amount of experience in that area and he is looking forward to working in this neighborhood. He said one of the other comments was that the Tulip Lane subdivision is 1-1/2 to 2 acres in size, our lots aren't that but the density they are proposing for the subdivision is one house for every 1-1/2 acres so in that regard and density wise we are complementing what the community is in that regard. He said one gentleman mentioned the idea of cluster homes and he does not want them to get confused, this is cluster zoning we are using to achieve this plan but it is not a cluster development as you may see when you drive around and see all these homes clustered together, the houses will be about 4,000 sq. ft. custom homes and also it won't have a cluster development look or feel at all, it is just the zoning mechanism they are using to try to get there. He said someone mentioned in the future someone may try to connect these two culdesacs to make it a through street but the green space they are preserving and the most sensitive land in this project is being preserved in dedicated green space and once it becomes dedicated green space it is perpetual, you can never change that use again so once Preferred Development is gone and someone comes along and says they want to put a street in there, it is forever dedicated green space. He added that he was led to believe by the prior developer who had submitted a plan about a year ago that the residents weren't interested in talking about this project coming into the association but he would love to have any conversation with that regard to see what commonality we have there.

Mr. Oberle said there are actually some deed restrictions with the association.

Mr. Iacona said they can talk about that and this may be more restrictive than what the association has and also there may be something with bringing the water line to the entrance of sublots 34 and 19, so maybe there is a benefit to the neighborhood to extend that down the road to take advantage of that and added that he is not sure what the septic systems are doing in that area but if there is a benefit that could be extended for tying in, maybe there is some benefit with that regard also.

Mr. Schwin said they already had the discussion about sewers and they would not have anything to do with your area (Voproco property) it would be with some industrial area, Knowles, and since they have not seen the detailed plans yet, 4,000 sq. ft. houses were mentioned on 1-1/2 acre lots, we are all 2,000 sq. ft. on a 1-1/2 acre average and asked if that won't drive the value of their homes down to have twice as big houses.

Mr. Iacona said that is the opposite, when the value of the homes in the neighborhood goes up, they normally bring your values up with them.

Mr. Schwin said but I am in a 2,000 sq. ft. shanty down the street and you are in a 4,000 sq. ft. mansion up the street.

Mr. Iacona said he has had subdivisions that have houses from 3,000 sq. ft. to 12,000 sq. ft. in the same subdivision when it is laid out correctly and in a nice setting.

Mr. Schwin said we are all built already and referred to a strip of 2,000 sq. ft. houses and then 4,000 sq. ft. houses.

Mr. Iacona said he guesses it would be more of a concern for the people living at the end who have to drive by.

Mr. Schwin said yes, our shanties

Mr. Iacona said they are not looking at shanties.

Mr. Schwin said yes which makes our values seemingly less, right.

Mr. Iacona said he is not a pro as far as appraisals.

Mr. Schwin said it is a concern and he had no idea they were 4,000 sq. ft. houses.

Mr. Iacona said they are all custom homes and he can see 4,000 sq. ft. homes being in there.

Mr. Schwin said there will be twice the house on  $\frac{3}{4}$  to  $\frac{1}{2}$  of an acre and that feeds into the concern about the aesthetics. He asked what the prices will be of these houses.

Mr. Iacona said if they are 4,000 sq. ft. they will probably be \$550,000 in that ballpark.

Mr. Murphy asked if the owner of the property is here.

Mr. Thomas Vokas testified by saying yes he is.

Mr. Murphy asked Mr. Vokas when he bought these properties if he knew it was three acre zoning.

Mr. Vokas said yes he did.

Mr. Olivier asked Mr. Vokas how long he owned the property.

Mr. Vokas said he has owned the property since 1997 and before he purchased it he did his due diligence, he went to the basement of the Geauga County Court House and pulled out the plat for Dalebrook Estates and knew there was frontage on the end of Dalebrook, 132' and knew there was a sewer and waterline through the property, he knew that that could be a benefit at some point and added that he has grown up in Geauga County and in fact he is a resident of Bainbridge and a property owner and a business owner. He continued by saying that he knew that there was frontage on both sides and did his research on it so he was fully aware of the entire improvements and variables and conditions of the property when he purchased it.

Mr. Oberle asked if the developer would please provide copies of the plans to the residents because we saw them for the first time tonight.

Mr. Lewis said they are a matter of public record at the town hall.

Mr. Lamanna said copies could probably be made.

Mr. Lewis said to call Mr. McIntyre for copies.

Mr. Quay said all he is saying is that he has water and sewer so the run-off and the perk into his soil is not going to affect his homes because it is going into the sewers, he does not address what happens to everything around it. He said he agrees, if he has sewer and water it is not going to affect his homes, but he (Mr. Quay) has a well.

Mr. Lamanna said one of the considerations that the board will look at is drainage and the impact on that sort of thing and that is one of the reasons why the board is asking about retention ponds collection because we don't want to have run-off problems, the board is looking at the overall surface area of the development and how much hard surface there is going to be as a percentage of the total area and we are looking at wetlands preservations so that those wetlands remain so they are going to remain a source of recharge and added that all of those things will be considered.

Mr. Quay said he just saw a lot of smoke in the words that he was using.

Mr. Lewis said we have been looking at those elements regardless of any size of a new development or whatever services or utilities that were there with the same criteria, the board needs to look at it either way.

Mr. Lamanna said there are other agencies involved such as the Geauga Soil & Water Conservation District that also regulates this aspect of it as well so they will have to satisfy them both on the permanent status of the project when it is completed and they also have to satisfy them during the construction stage that they have taken appropriate steps to prevent run-off, silting and all of those types of things during the course of construction when they have everything torn up when putting in roads etc. so there is another agency that is dedicated just for looking at those aspects of the project.

Mr. Schwin asked if the Army Corp of Engineers have input on this at all.

Mr. Lamanna said only if they reach a certain threshold.

Mr. Schwin asked who's diligence is that and if they are contacted.

Mr. Lamanna said they are very good at finding out about people doing projects and anybody that does any significant amount of development is pretty sensitive to that in terms of doing delineations to determine where the wetlands are and also they actually have to apply to the Army Corp of Engineers and there are permits that are available automatically if certain criteria is met but they still have to be notified and if they want to they will come and look to make sure you are only affecting the amount of wetlands that you intended. He explained as far as the whole permitting process, that is one of the things the inspector looks for and part of the decision is that the developer will comply with the Army Corp of Engineers and all of the other applicable agencies that would regulate what they are doing and it is an extra additional obligation that the board puts on them and their non-compliance would also be a violation of their zoning permit if they didn't comply.

Mr. McGlenn said he asked the question whether anyone has formed an opinion as to the project's harmony with Bainbridge Township's land use plan.

Mr. Lamanna said that is the purpose of this whole process and the board has to wait until it hears all of the testimony and at the completion of the testimony, that is one of the things the board will be considering based on all of the testimony that comes in to the board.

Mr. Riehl explained that this is only a preliminary presentation and a lot more information will be submitted to the board.

Mr. Lamanna said it would be premature for the board to make that kind of assessment and when all of the testimony and evidence is in, the board as part of its business meeting will discuss and come to a conclusion about whether they feel it does or doesn't.

Mr. Riehl said so everybody is clear, asked when the meeting is.

Mr. Lamanna stated that the next meeting will be the third Thursday of the month which is October 18, 2007 at 7:30 P.M. so if anyone would like to come back and listen to the rest of the hearing and have any additional comments, you are certainly welcome to do so and maybe have a chance to take a closer look at the plan and offer any thoughts or comments especially as they personally affect you. He said from the board's standpoint, that is one of the things it is most interested in if you are on these streets and a close proximity to it how you think it is going to personally affect you because generalities of how it will affect Bainbridge or the neighborhood are perhaps interesting to the public but not very helpful to the board. The board wants to know where you are and how you think this is going to affect your personal situation because that is what the board wants to be able to factor in.



Mr. Lamanna continued by saying gross generalities carry less impact and less importance with the board than the personal effect on individual property owners and to keep that in mind as they are looking at this and speaking on the project.

Mr. Schwin asked if that plan is a matter of public record.

Mr. Lamanna said yes they will make some copies available.

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

Motion BZA 2006-33 – 16941 Savage Road (Voproco)

Mr. Lamanna made a motion to table application 2006-33 for further consideration at the next regularly scheduled meeting to be held October 18, 2007.

Mr. Lewis seconded the motion.

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

Since there was no further testimony, the public hearing was closed at 9:35 P.M.

Respectfully submitted,

Michael Lamanna, Chairman  
Todd Lewis, Vice Chairman  
Mark Murphy  
Mark Olivier  
Donald Takacs

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

Date: October 18, 2007

AUDIO RECORDING ON FILE

BZA PH 9/20/2007

-26-

Bainbridge Township, Ohio  
Board of Zoning Appeals  
September 20, 2007

The regular meeting of the Bainbridge Township Board of Zoning Appeals was called to order at 9:35 P.M. by Mr. Michael Lamanna, Chairman. Members present were Mr. Todd Lewis, Mr. Mark Murphy and Mr. Mark Olivier. Mr. Donald Takacs was absent.

Minutes

Mr. Lamanna made a motion to adopt the minutes of the August 16, 2007 meeting as written.

Mr. Lewis seconded the motion.

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

Applications for October 18, 2007

The Bainbridge Township Board of Zoning Appeals set a public hearing on the above applications for October 18, 2007 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 and the services of a court reporter.

Application 2007-39 by Gregory Noeth, Architect for Bainbridge Associates, Ltd, II, LLC for property at East Market Square Shopping Center (8574 E. Washington Street)

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

Application 2007-40 by David DeSatnik for property at 16740 Brigadoon Drive

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

Application 2007-41 by McMillon Construction Inc. for property at Sublots 96-102 at Rocker Avenue and Bedford Street

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

Application 2006-33 by Voproco Properties Limited for property at 16941 Savage Road -  
Continuance

The applicant is requesting a conditional use permit with variances for the purpose of constructing single family cluster homes. The property is located in a R-3A District.

Since there was no further business, the meeting was adjourned at 10:22 P.M.

Respectfully submitted,

Michael Lamanna, Chairman  
Todd Lewis, Vice Chairman  
Mark Murphy  
Mark Olivier  
Donald Takacs

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

Date: October 18, 2007