

Bainbridge Township, Ohio
Board of Zoning Appeals
September 20, 2018

Pursuant to notice by publication and ordinary mail, the public hearing was called to order at 7:08 P.M. by Mr. Michael Lamanna, Chairman. Members present were Mr. Ted DeWater; Mr. Joseph Gutoskey; Mr. Todd Lewis and Mr. Mark Murphy. Ms. Karen Endres, Zoning Inspector was present.

Mr. Lamanna 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 2018-40 by The Montefiore Housing Corporation for property at 16695 Chillicothe Road

The applicant is requesting a review and renewal request of an existing conditional use permit for the purpose of a Residential Care Facility and Skilled Nursing Facility. The property is located in a R-3A District.

Mr. Dale Markowitz, attorney for the applicant; Mr. Seth Vilensky and Mr. Ari Hyman of The Weils were present to represent this application.

Mr. Markowitz of Thrasher, Dinsmor and Dolan testified that he is here on behalf of the applicant for Montefiore, The Weils of Bainbridge. He said he has on his left Mr. Seth Vilensky who is the CEO and President of Montefiore and on his right is Mr. Ari Hyman who runs The Weils of Bainbridge so they are both here to answer any questions the board might have. He said they put in their application a little early because they wanted to get this done a few months before their permit expired and he spoke with Ms. Endres and worked their way through the application and as you can see from her report there are no complaints. He said they haven't made any significant changes since they were back here a few years ago to do an 18 bed addition, if the board recalls, the memory care type of unit, and they amended the CUP for that and since then nothing has changed, their facilities are still operating pretty much at full capacity. He said they are doing a lot of service to the community and a very high percentage of the residents who are living there are from the Geauga County, Bainbridge, Chagrin Falls area and they have certain civic type events and it is still a facility he is proud of. He said he was telling Mr. Vilensky the stuff that went on when they first got approval many years ago and how difficult the neighbors were and now all of a sudden they love us and he knows there haven't been any complaints from the neighbors and he thinks they are very happy with the fact they are there and not something else so they are here to seek their renewal. He said the last time they were here was 2013, it was a five year renewal and we ask that the board renew it with all of the same conditions that exist on their permit for an additional five years. He said he was happy to answer any questions the board has as well as Mr. Vilensky and Mr. Hyman.

Mr. Lamanna asked Ms. Endres if there are any issues or complaints or any unsatisfied conditional things or other violations of a condition that she is aware of.

Ms. Karen Endres, Zoning Inspector testified that she has not had any complaints and there is nothing else that she is aware of.

Mr. Lamanna said we had this come up at another facility and that is, when is your garbage picked up.

Mr. Markowitz said that is one question we weren't expecting.

Mr. Lamanna said we have had some issues at some other facilities that are in residential areas where they come and pick up the garbage at 5:00 in the morning.

Mr. Markowitz said the neighbors won't hear it from where our garbage is.

Mr. Lamanna said that is one thing to keep in mind because usually you can make arrangements with them so that they are not there too early because the backup horns or beeps can penetrate, it is a sound that carries.

Mr. Hyman said he will look into it.

Mr. Lamanna said to just check on it, he was just curious.

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

BZA Motion 2018-40 – 16695 Chillicothe Road (Montefiore Housing Corporation)

Mr. Lamanna moved to renew the conditional use permit for this facility as has been amended for the addition with all of the existing conditions and requirements to remain the same.

1. Based upon the current expiration date of November 21, 2018 this new conditional use permit will expire on November 21, 2023, a period of five years after the expiration of the current conditional use permit.

Based on the following findings of fact:

1. The reason for granting this extension for a full period is that the applicant has maintained the facility fully in requirements with the conditional use.
2. There have been no changes that would merit or warrant any change to any of the conditions applicable to this facility.

Mr. Lewis seconded the motion.

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

Application 2018-41 by Lawrence and Patricia Oliveri for property at 17990 Chillicothe Road

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

Mr. and Mrs. Lawrence Oliveri were present to represent this application.

Mr. Lamanna said we have here an additional walkway, sidewalk in front of the house from the driveway.

Mr. Gutoskey asked if there are no steps there now.

Mrs. Oliveri testified that there are steps that are broken and the sidewalk is just stepping stones so you have to kind of jump from one to the other and your feet get wet whenever it rains.

Mr. Lewis referred to the steps and said it looks like everyone has been standing on one side. He said the sidewalk increases their lot coverage by 1.77%.

Mrs. Oliveri said they just want to get to their front door.

Ms. Karen Endres, Zoning Inspector testified that at one time there was some discussion when these lot coverage variances come in on these smaller lots, the lots that are much smaller than three acres, giving them a little extra lot coverage, possibly 15% so that they don't have to come back.

Mr. Lamanna said that is what he was thinking.

Ms. Endres said it would give them a little more coverage than what they were just asking for to eliminate the need to come back to what would be a reasonable amount of lot coverage.

Mr. Lamanna said 1% gives you 600 additional sq. ft. so if we made it 13% which is still reasonable given the size of the lot they could build a 1,000 sq. ft. deck if they wanted to and not have to come back which he thinks would be a sensible way to do it that way they have got some space to play with and even at the higher level they are well within what is reasonable here if it was requested and it will save a future trip so just file it away somewhere and remember that you will be okay for some future project. He said it means the lot will be in compliance even though it is over, there will be a variance granting it and these days the title companies are getting pickier and pickier about these kinds of things and this way you will be covered so file away a copy of the decision when it comes out, keep it with your papers just in case it comes up at some point.

Mr. Murphy asked if there was anyone in the audience interested in this application.

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

BZA Motion 2018-41 – 17990 Chillicothe Road

Mr. Lamanna moved to grant the applicants the following variance for the purposes of lot coverage on this lot.

1. A variance from the maximum permitted lot coverage of 10% to 13%.
2. This increase is being made to allow for pre-existing construction that is in excess of the permitted 10% and also to allow an additional planned increase of 130 sq. ft.
3. This variance will give an additional cushion for future construction on the lot without requiring additional action by the board.

Based on the following findings of fact:

1. Even at 13% this is a reasonable lot coverage.
2. This actual lot is less than 1.5 acres therefore it is reasonable to have a higher lot coverage because development consistent with other development in the neighborhood would cause the lot coverage to exceed the permitted 10% on this pre-existing lot of record.

Mr. Gutoskey seconded the motion.

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

Mr. Lamanna noted that the board will hear the applications out of order and hear application 2018-43 next.

Application 2018-43 by Jason Lawenda for property at 7676 Chagrin Road

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

Mr. Jason Lawenda was present to represent this application.

Mr. Lamanna stated that the request is for a 6' high fence, front and side yards in the required front yard.

Mr. Gutoskey said the house is only 35' off the right-of-way.

Mr. Lawenda testified that the fence is 4' in front of the house to allow for the steps.

Ms. Karen Endres, Zoning Inspector testified that she has some aerial views.

Mr. Lawenda said he has some photos too if the board wants to see what it looks like from the front. He referred to the aerial and said if you are looking at this area here the fence is right here and it is from the rear of the house here and it comes up about 4' right in this area.

Mr. Murphy said to the corner of the house or a little beyond the corner of the house and added it is literally invisible from the street. He said it is only in the front yard that it has to be 4'.

Ms. Endres said required yards are 100' but the house is on a non-conforming lot.

Mr. Lawenda said if you look at the rear elevation of the property there is just no other place for them to place the fence.

Mr. Murphy said there is a fence there now.

Mr. Lawenda said there is a 4' fence on the side there now but they are replacing the existing because they are getting a dog that can clear a 4' fence and they want to make sure the dog is secure.

Mr. Lewis asked if the new proposed fence is 6' and the existing is 4'.

Mr. Lawenda said correct.

Mr. DeWater said it will be in the same place then.

Mr. Lawenda said the same exact place as it is now. He said they are picking up the dog on Saturday.

Mr. Murphy said the front yard limitation is 4', and asked if there are any limitations for the backyard, can it be 8' in the backyard.

Ms. Endres said on the rear and side it can be 8'.

Mr. Murphy said it is because the fence is closer to the road than the 100' setback.

Ms. Endres said right.

Mr. Murphy said so that is a setback issue, the fence being related to the front of the house is only up by 4', if it came right off that corner other than being too close to the road which is the way the house was originally you wouldn't even be asking for a variance.

Ms. Endres said any portion of the fencing is in the front required yard and the required yard is 100’.

Mr. Lewis said he needs a double variance.

Ms. Endres said it is the fence height also.

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

BZA Motion 2018-43 – 7676 Chagrin Road

Mr. Lamanna moved to grant the applicant a variance for the purposes of constructing a 6’ high solid board on board fence to the front and side yards of his house in the location that is shown on the drawing that the applicant has submitted to allow this to be 6’ rather than the 4’ that is permitted in the 100’ required setback.

Based on the following findings of fact:

1. A practical difficulty exists because this is a non-conforming house that is only located approximately 35’ from the road right-of-way, therefore most of this fence is effectively in the side yard of the house anyway so it would not impact upon the purpose for the limitation on the height.
2. The small portion of the fence that will actually be in front of the house is located in a heavily wooded area that will not be visible so it is not going to adversely affect any of the neighboring properties.
3. It is not going to affect the visibility of any traffic on the street nor any adjacent property owners.
4. It is not inconsistent with the character of the neighborhood.

Mr. Murphy seconded the motion.

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

Application 2018-42 by Peppermill Chase Homeowner's Assoc. Inc. (the HOA) by Elizabeth Pretzlav, President for properties at 8501 Peppermill Run and 8490 Peppermill Run

The applicant is requesting area variance(s) for the purpose of maintaining existing front yard walls and development identification signage. The properties are located in a R-3A District.

Mr. Michael Lamanna, Chairman and Mr. Todd Lewis, Vice Chairman recused themselves from this application. Mr. Lamanna was involved in the preparation of this application and Mr. Lewis is a resident of Peppermill Chase Subdivision.

Mr. Joe Gutoskey served as Acting Chairman for this application.

Mrs. Elizabeth Pretzlav, President of the Peppermill Chase Homeowner's Association was present to represent this application.

Mrs. Pretzlav testified that Mr. Lamanna prepared the paperwork but she is here to request a variance for their development sign and the walls that part of that sign which are on each side of the Peppermill Run road, right across from where Pettibone Road ends on Route 306. She said the walls and signs were constructed around 1990, they are not exactly sure, by the developers and as Mr. Lamanna said, in the course of doing some other work for them they discovered that they never had the zoning review of the walls when they were constructed so we decided to come and present this to the board so that we can get this issue resolved. She said she brought more pictures on her iPad that can show the board the walls but the main issue is that the signs are closer to the right-of-way by about 1' versus the 12' that is required. She referred to the photos displayed and said this is the part where it says Peppermill Chase, this is about 4" to 6" higher than it is supposed to be so we are asking this to be granted because we really feel that these variances are relatively small and they don't impact anyone. She said actually if this wasn't curved, if it was a right angled road then we would be in conformity but because it was curved when it was developed, she is an original resident as well as Mr. Lewis and it has been that way ever since they moved there in 1991. She said the walls do not provide any obstruction to traffic and as you can see they are well landscaped.

Mr. DeWater asked if she was there for the construction of the walls.

Mrs. Pretzlav said the walls were up when we bought.

Mr. Gutoskey said from what he is seeing there was no easement on the plat for the walls and the developer never came in and permitted the walls.

Ms. Karen Endres, Zoning Inspector testified by saying right, at some point everything was done with no permits.

Mr. Gutoskey said our code is currently 12' off the right-of-way and that is probably because the utility easements are 12' and this is probably 10'. He said all easements were 10'.

Ms. Endres said also you don't want to have any standalone structures in the road right-of-way because of accidents and safety issues.

Mr. Gutoskey said from what he can tell from the drawing this is all behind the right-of-way.

Mrs. Pretzlav said also there is a big utility pole behind the one on the north side.

Mr. Murphy said the zoning would expect that wall to be 12' behind the right-of-way so it is another 12' further away from the intersection of what we are actually seeing there because that blue line is pretty much the right-of-way.

Mr. Gutoskey said yes.

Mr. Murphy said so their walls are 1' behind the right-of-way and they are supposed to be another 11' further.

Mr. Gutoskey asked what the requirement was then.

Ms. Endres said she didn't check, it may have been a lesser setback but because the application is coming to her today she has to apply today's standards.

Mr. Murphy said those walls are actually on two of the lots so that is why we've got these letters of easements so the person that owns the left lot has an easement for this wall the homeowner's association granted in perpetuity and the other person did the same thing that was why these are filed July 19, 2018. He said he thought the easements would be eighties or nineties and it is this past July so now he sees that.

Mrs. Pretzlav said it was in the course of discovering we didn't have the proper easements and of course in getting the easements is when we discovered the placement of the walls.

Mr. Murphy asked Mrs. Pretzlav if she is one of those homeowners.

Mrs. Pretzlav said no, she is not.

Mr. Murphy said neither one of those homeowners is here, they don't seem to be unhappy about this obviously, it is not being contested in any way by the homeowners association. He asked if there have been any accidents there.

Ms. Endres said since she has been in office she has never been aware of an accident involving that intersection and those walls.

Mr. DeWater said when you are at the intersection there are no blind spots.

Mr. Gutoskey said he doesn't think there are any problems with blind spots, he just thinks the code is written to have the signs behind the utility easement. He said that pole is probably the drop into the subdivision.

Mrs. Pretzlav said there are some in the front and there is this one behind and she doesn't know which one is which.

Mr. DeWater said you have the traffic light pole.

Mrs. Pretzlav said they have had an accident when somebody was trying to pass on the wrong side of the road because they didn't want to wait for the un-coming traffic turning left.

Mr. Murphy commented on the accidents prior to Peppermill Chase being there.

Mr. Gutoskey said the sign is 74" versus 72" correct.

Ms. Endres replied yes.

Mr. Gutoskey said per this drawing it looks like the pillars are 57" and the wall is 44".

Mrs. Pretzlav said yes.

Mr. Gutoskey said the question is on Ms. Endres' comments the maximum wall height of 4'.

Ms. Endres said there are a couple of different portions of the zoning resolution that could apply to this. She said we have the fence section that has a maximum height and the walls have a maximum of 4' in height and then we have sections for ground signs that have a maximum height of 6' so when you are talking about a sign on a wall you've got kind of a discrepancy there where the wall can't be more than 4' high but the sign can be 6' high.

Mr. Gutoskey said he looks at it as the thing the sign is on is the sign.

Mr. DeWater said the wings are the wall.

Mr. Gutoskey said if you kick some mulch against the wall it would be 6' and as far as the wall goes he would consider the pillars decorative to the wall so he doesn't know if a variance is needed for the wall part because it is less than 4'.

Mr. Murphy said he agrees.

Ms. Endres said she considers the whole thing to be like a subdivision sign.

Mr. DeWater asked even the wings on it.

Ms. Endres said yes, she wouldn't know what else to call it.

Mr. Murphy said it is one of the biggest signs in Bainbridge and it is pretty and it is tucked back in there.

Mrs. Pretzlav said it does provide some privacy for those corner homes as well and with just the sign they wouldn't have that privacy but they have privacy because of the walls.

Mr. DeWater said it stops the headlights from Pettibone.

Ms. Endres said she is not opposed to it in any way, she just wanted to be thorough in getting the board information it might want to consider.

Mr. DeWater asked if there is a problem with the one wall where it is with the utility pole behind it.

Mr. Gutoskey said no because there is room, if this is a foot off, the utilities are already in there so they are in their easement.

Mr. DeWater said if they have to get in there to maintain the pole they will just do it with a crane truck probably.

Mr. Gutoskey said or they are going to say it is in their easement and we are going to hurt your fence and we are not responsible to fix it but he doesn't see them doing it.

Mr. Murphy said he doesn't know if we have the ability or do we even necessarily have to but he sees Peppermill as the sign and the rest as a wall because if we say that whole thing is 700 sq. ft. of signage he thinks that is wrong because he doesn't really think it is. He said it seems to be like a landscape wall, could be just a personal corner wall for the people that live there and he would say the part that has the wording on it would be the signage.

Ms. Endres said there are parts that do exceed 4' though.

Mr. Murphy said he thinks the board would grant a variance for that and the decorative posts average to less than 4', there are so many feet of 44" and then 20" posts so he is assuming the average of those two wings are around 48" or less. He said he has no problem with looking at this, if it were new, maybe we would ask to have it taken down a little bit but he doesn't see it as being terribly out of line.

Mr. DeWater said not when it has been there twenty plus years.

Mr. Murphy asked if there was anyone else here interested in this application.

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

BZA Motion 2018-42 – 8501 & 8490 Peppermill Run (Peppermill Chase Homeowner’s Assoc. Inc.)

Mr. Gutoskey moved to grant the following variances for the purposes of allowing the decorative entrance walls with signage to remain as constructed.

1. A variance for the sign height from 72” required to 75” as existing for a variance of 3”.
2. A variance for the wall height from 48” to 57” as existing for the pillars for a variance of 9”.
3. A variance from the required 12’ setback from the right-of-way line of Chillicothe Road and Peppermill Run to 1’ plus or minus based on the drawings provided to the Zoning Inspector.

Based on the following findings of fact:

1. The existing wall was installed without a zoning permit that was discovered by the homeowner’s association and brought to the township’s attention.
2. The wall has been there almost 30 years since the development was completed and is decorative for the subdivision.
3. The wall does not obstruct vision for drivers.
4. The wall sign acts as a screening for headlights for the adjacent property owners.
5. The entrance defines the development.

Mr. Murphy seconded the motion.

Vote: Mr. DeWater, aye; Mr. Gutoskey, aye; Mr. Murphy, aye.

Mr. Lamanna and Mr. Lewis returned to the meeting.

Since there was no further testimony, the public hearing was closed at 7:50 P.M.

Respectfully submitted,

Ted DeWater
Joseph Gutoskey
Michael Lamanna, Chairman
Todd Lewis, Vice Chairman
Mark Murphy

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

Date: October 18, 2018

AUDIO RECORDING ON FILE

Bainbridge Township, Ohio
Board of Zoning Appeals
September 20, 2018

The regular meeting of the Bainbridge Township Board of Zoning Appeals was called to order at 7:50 P.M. by Mr. Michael Lamanna, Chairman. Members present were Mr. Ted DeWater; Mr. Joseph Gutoskey; Mr. Todd Lewis and Mr. Mark Murphy. Ms. Karen Endres, Zoning Inspector was present.

MINUTES

Mr. Gutoskey moved to adopt the minutes of the August 16, 2018 meeting as written.

Mr. Murphy seconded the motion.

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

APPLICATIONS FOR NEXT MONTH

Application 2018-44 by Rick Turner, Diamond Z. Engineering for True North Energy LLC for property at 8501 E. Washington Street

The applicant is requesting a review and renewal of an existing conditional use permit for a gas station with convenience store and car wash. The property is located in a CB District.

Application 2018-45 by Frederick Henry for property at 18926 Highpoint Road

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

Application 2018-46 by Josh Kaplovitz for property at PP#02-145620 Bainbridge Road

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 2018-47 by John Gambatese for property at 8330 Yorkshire Drive

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

Application 2018-48 by MPM Landmark LLC for Joe and Tina Hart for property at 8720 Tamarack Trail

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

The Bainbridge Township Board of Zoning Appeals set a public hearing on the above applications for October 18, 2018 at 7:00 P.M. at the Bainbridge Township Community Hall, 17826 Chillicothe Road, Bainbridge Township, Ohio and unanimously resolved to request the Bainbridge Township Board of Trustees to issue a purchase order for legal advertising.

Since there was no further business, the meeting was adjourned at 9:38 P.M.

Respectfully submitted,

Ted DeWater
Joseph Gutoskey
Michael Lamanna, Chairman
Todd Lewis, Vice Chairman
Mark Murphy

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

Date: October 18, 2018