

Bainbridge Township, Ohio
Board of Zoning Appeals
September 21, 2017

Pursuant to notice by publication and ordinary mail, the public hearing was called to order at 7:02 P.M. by Mr. Todd Lewis, Vice Chairman. Members present were Mr. Michael Corcoran, Alternate; Mr. Ted DeWater; Mr. Joseph Gutoskey and Mr. Mark Murphy. 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 persons who intended to testify.

Application 2017-19 by Fr. Dan Schlegel, Pastor, Holy Angels Church for property at 18205 Chillicothe Road

The applicant is requesting a modification of an existing conditional use permit as it relates to the existing building referred to as the “Wing” to permit the building to be used as a residence for a church employee or religious purposes as part of its church activities. The property is located in a R-3A District.

Mr. Lewis noted for the record that this application was withdrawn by the applicant.

Motion BZA 2017-19 – 18205 Chillicothe Road (Holy Angels Church)

Mr. Lewis moved to dismiss this application without prejudice.

Mr. Gutoskey seconded the motion.

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

Application 2017-20 by Gabriel Franklin for property at 7190 Country Lane - Continuance

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

Mr. Lewis noted for the record that this application is a continuance from last month that was originally scheduled for this evening but it is continued to next week, Thursday, September 28, 2017.

Motion BZA 2017-20 – 7190 Country Lane

Mr. Lewis moved to continue this application to the special meeting to be held September 28, 2017.

Mr. DeWater seconded the motion.

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

Application 2017-21 by Family & Community Service Inc. for property at 8885 Washington Street - Continuance

The applicant is requesting a use variance for the purpose of permitting transitional housing for young adults. The property is located in a R-3A District.

Mr. Lewis noted for the record that this application is a continuance from last month that was originally scheduled for this evening but it is continued to next week, Thursday, September 28, 2017.

Motion BZA 2017-21 – 8885 Washington Street (Next Step)

Mr. Lewis moved to continue this application to the special meeting to be held September 28, 2017.

Mr. Gutoskey seconded the motion.

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

Application 2017-25 by Kitchen and Bath Etc. Inc./Emeil Soryal for property at 8866 Taylor May 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.

Mr. Emeil Soryal and Mr. Tim Savage were present to represent this application.

Mr. Lewis stated that this application is for a new house and the proposed relief is on the side yard, both sides and an increase in the lot coverage.

Mr. Emeil Soryal testified that he doesn't know if the board is familiar with the property that was involved in a fire and it is just sitting there now ready to hopefully be demolished and then new construction built. He said Mr. Savage and himself are looking at a possible partnership in the new construction and they have the plans, the lot is 1-1/2 acres and the minimum lot size now is three acres and obviously where the house is now, it has not been demolished yet.

Ms. Karen Endres, Zoning Inspector asked that there be no talking in the audience because she can't hear what is going on if there are side conversations going on.

Mr. Soryal said because of the size of the lot, we did a nice size house, not necessarily in square footage but in width and a side entrance garage to make it look attractive and the minimum setback is a little bit of a hurdle and they were hoping to be able to put this house up.

Mr. Tim Savage testified that actually the home that is there now is a burned out home and he is sure the board is familiar with the property on Taylor May. He said they are proposing new construction but given that it is an older lot they need a variance. He said actually the footprint of this home is smaller than the existing house so the site plan was put together as a proposal for this new construction project to be a smaller footprint and will be a nice introduction of new construction on an overgrown lot.

Mr. Soryal said parts of the house where the blue roof tarp is is a big addition that was unpermitted and is closer to the sideline so with our plan here we will be further away from the neighbor, not any closer.

Mr. Savage said the site plan that we have proposed and you can see on the red lines that show the original structure shown on the picture posted on the screen. He said the new construction will go back a little bit further, a little bit more in line with the houses to the east and show actually a more narrow footprint of the house and trying to center it up with the side lots. He said given the new zoning requirements here it is difficult to present a house there, they are trying to center it up with a moderate size home for new construction in this area.

Mr. Lewis asked if this is septic.

Mr. Soryal replied yes.

Mr. Lewis asked where the well-head is now and the leach fields.

Mr. Soryal said the well-head now is right there, he referred to a site plan, now it is behind the house but with the new house the well will be in the front and the new septic is going to be in the back. He said they already have a permit application and scheduled for a job site survey so they are working through that process.

Mr. Gutoskey asked if it is Dave Sage.

Mr. Soryal said yes Dave Sage.

Mr. Gutoskey said that was his question about the septic.

Mr. Soryal said they already have the test going and working through that and added that the current septic is in the front.

Mr. Lewis said to Ms. Endres we were speaking a little earlier about the size of the lot and square footage.

Ms. Endres testified that this is kind of an unusual subdivision because the description went to centerline rather than to the right-of-way and standard operating practice with subdivisions is the actual lot itself starts at the right-of-way rather than to the centerline. She said she didn't know that this particular subdivision was different than normal and when she found out about that she ran the numbers and it is slightly more lot coverage than what we originally thought. She said he is not requesting the lot coverage, he is not adding onto the lot coverage, he is not asking for additional coverage, the lot is just smaller than what we thought it was.

Mr. Gutoskey said it is 1-1/2 acres to the centerline but when you take the 30' out it is about 4,500 sq. ft. less.

Ms. Endres said it is 4,500 sq. ft. smaller than he thought.

Mr. Gutoskey said it is a weird subdivision because the dimensions actually go to the centerline of the road instead of to the right-of-way.

Mr. Savage asked if that is a 30' loss in the front of the property.

Mr. Gutoskey said yes.

Mr. Savage said their proposal is to move the house further back on the lot.

Mr. Lewis said it is 10.8% and the calculations run it to about 11.55%, we just want to be accurate.

Mr. Gutoskey asked if there is a deck or patios.

Mr. Savage said there will be a screen porch in addition to a stone patio and it is on there.

Mr. Murphy said the other red dotted line is you are taking out an accessory building or something.

Mr. Savage said correct, it is a shed. He said it will be removed and the lot will be cleared and we are taking a piece of property that has been sitting there getting a lot of attention and we are turning it to a clear lot with new construction.

Mr. Lewis asked if there is anybody out there with any comments regarding this application.

Mr. Bill Leskovec testified that he is the resident to the east at 8880 Taylor May Road and said thank you to Mr. Soryal for at least putting forward in trying to improve the property because it has been an eyesore for a while so kudos for at least doing that. He said he thinks he heard mentioned that there is an improved setback on his side because he is on the right.

Mr. Soryal said correct.

Mr. Leskovec said so the existing property is within 12' to 15' so for us on the positive side seeing improved setbacks will be a plus for us and we had looked at this application during the week a little bit so he guesses his question is the size of the house on the lot. He said for us looking at 1-1/2 acre lot houses on that whole stretch of the street it seems that moving on this it seems like it might be a little bit bigger house and he thinks their concern as a resident might be the house placement is bigger than their house, the house to the west, he doesn't know if it is a larger house because it is going to be two stories, higher above ground, elevation and we are actually probably sitting 15' lower than that property so we will be looking up to a larger two story structure so his question is the square footage of the house is 3,150 and asked if that is the footprint so the total square footage of the house would that be higher including the second story.

Mr. Savage said it is a Cape Cod style home so it is not a typical two story house and he has a set of plans here if you (Mr. Leskovec) would like to look at it to get a better feel for it.

Mr. Leskovec said so the 3,150 square is the total square footage.

Mr. Savage said it is the first and second floor.

Mr. Leskovec said okay.

Mr. Soryal said not including the basement because it is not being finished at this point.

Mr. Gutoskey asked doesn't the 3,150 sq. ft. include the patio and the porch.

Mr. Savage said correct.

Ms. Endres said she took the 3,150 sq. ft. to mean the attached garage, the first level of the house, the patio and deck.

Mr. Soryal said the footprint of the house, yes.

Mr. Leskovec said his last comment is just a concern that because it is a larger house and the placement of where it is and because of the elevation change, it is a larger house than the typical houses that were there or the houses along that stretch of the street, we will be seeing a larger home and stare at a bigger house so their only concern is screening or something else like natural trees or something that might help buffer the size of that area of the property.

Mr. Soryal said the trees on the property lines are going to remain and we are moving the house further up which as you can see is more in line with your house so you are really not going to be staring at the house plus we hope you agree that you will be looking at a much nicer thing that was there now.

Mr. Savage asked Mr. Leskovec if that is his fence.

Mr. Leskovec said no but the trees are actually on his property but the fence has some other grading issues there where there was a rock driveway with some type of temporary retaining wall.

Mr. Soryal said they are in the process of cleaning the lot to see what is there, it has been overgrown.

Mr. Leskovec said he thinks that would be their main concern just from that side of the house to there with the fence and the grapevine and stuff that are currently there and what is going on between our house and the proposed house.

Mr. Savage said they want to present the new construction that has beautiful landscaping and proper screening to benefit all of the properties. He said the addition they put on the structure now he is not sure they had the proper permits for that but it went closer to your property and all of that is going to be removed actually, it will add more distance between the homes and the trees are going to stay and hopefully they will have some more natural screening there.

Mr. Leskovec said the new setbacks are a plus.

Mr. Savage said in reality, although the footprint looks bigger, most of that is the screened porch and the deck but he thinks in the end you will be very pleased how it will improve the neighborhood.

Mr. Soryal thanked Mr. Leskovec for coming.

Mr. Murphy asked if it is going to be less than 35' high.

Mr. Savage said it is a standard sort of a Cape Cod style roofline.

Mr. Murphy said it is 28' high max.

Mr. Soryal said it is not going higher than that.

Mr. Murphy said it looks like a nice addition to our community.

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

Motion BZA 2017-25 - 8866 Taylor May Road

Mr. Lewis moved to grant the applicant the following variances for the purpose of building a new construction on an existing lot of record. The structure that is currently there has received some substantial fire damage and the applicant's intent is to build a new residence directly behind it and then remove the fire damaged structure in its entirety as well as a small outbuilding, accessory building, on the east property line which would actually be in the footprint of where the new structure will be placed.

1. A variance from the minimum side yard setback (east side) from 50' to 36' 8" for a variance of 13' 4".
2. A variance from the minimum side yard setback (west side) from 50' to 41' 8" for a variance of 8' 4".
3. A variance from the maximum permitted lot coverage of 10% to 11.55% with the addition of the new structure, driveway and driveway pad.

Based on the following findings of fact:

1. A practical difficulty exists because it is an existing lot of record and there is actually a reduction in how the home is placed on the lot particularly on the one side yard from the existing house so it is actually an improvement increasing the amount of side yard setback on both sides.
2. Because they are moving the location of the new structure further from the street, it places it more in line with the other homes that already exist on the street.

Mr. DeWater seconded the motion.

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

Application 2017-26 by Kevin Bock for property at 8483 Trillium Drive

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 noted for the record that the applicant is requesting an area variance for the purpose of constructing a 10' x 16' accessory building 5' from the rear lot line of a non-conforming lot.

Mr. Kevin Bock was present to represent this application.

Mr. Bock testified that he needs a variance to put the shed there to store lawn mowers because his garage is all packed full so a variance is requested because he doesn't have any proper setbacks in the backyard at all, they don't even exist, 90', and a matter of fact the back of the house at one corner it is 72' and the other corner is 40' and change so 90' doesn't exist anywhere so he needs a variance to accommodate that. He said why he is suggesting 5' off the back line is for elevation purposes, there are some low spots in the yard that collect water all of the time and moving it any closer to the house would require him to put this in a mud hole or cutting down excessive amounts of trees. He said the board has some photos he submitted of the area back there and it is a heavily treed area except this area that is cleared now is where it happens to be the highest elevation on the property, maybe not the highest, the house is the highest but it is the least amount of fall on the entire property and that would be this back corner of the property. He said knowing that 85' is asking a lot, he talked to his neighbors about their feelings specifically, Arlene Morganroth who lives to the south of him and Dan Lastoria who is to the west of him, they have signed a letter of approval, documented and signed, name and address and everything on it saying they have no opposition to his intentions, also there is a picture of what the structure looks like. He said it is a premade structure, just put down some stone. He said if any compromise can be made for that 5' that he is asking for he would have to cut down a substantial amount of trees in the backyard, he doesn't have central air conditioning, the trees shade his house and keeps his house cool so he wants to keep these trees intact. He said moving it just a few feet more forward would result in him not being able to open the doors because they are directly in front of the trees and the trees are roughly at the 50' line from the back of the house so 25' or so backyard in that area, another 25' of a lower wooded area and beyond that he has the highest elevation which is the cleared area. He said he made a crude elevation map and he knows this isn't a typical topography map but this is what he did. He said these yellow lines represent a laser level.

Mr. Murphy asked Ms. Endres to show the 2' topography on the aerial.

Mr. Bock said the whole yard slopes toward Rt. 306 toward Trillium so that back corner being the highest elevation so he takes his own measurements, he doesn't know if they are valid here but in the treed area where any compromise could be made he would have to cut down the trees, fill that area so it would be level and not low because he doesn't want to put a shed in an area where it is going to flood with water all of the time.

Mr. Murphy asked do we know what those lines are.

Mr. Bock said he doesn't know where that map came from but the lines are 2' correct.

Ms. Karen Endres, Zoning Inspector testified that these are 2' contour lines.

Mr. Murphy asked if the back left on your lot is the highest elevation.

Mr. Bock said those lines are simply him taking a laser level at the corner of the house and measuring the fall at those points so he has the least amount of fall right there at this back corner so it would be sensible to him to put a wooden shed there.

Mr. Lewis asked what is going on in all of this space.

Mr. Bock said that is all wooded area.

Mr. Lewis asked if he has septic.

Mr. Bock said yes he does.

Mr. Lewis asked where the leach fields are.

Mr. Bock said they are in the front yard this way (he referred to a site plan). He said there is his well and they are all on here.

Mr. Lewis said he doesn't have that.

Mr. Bock said he is submitting this right now and asked if it is too late to use it.

Mr. Gutoskey said the lines make sense in the front yard and they follow the contours so they would go parallel to that contour that is in front of the house.

Mr. Lewis said this whole area here.

Mr. Bock said it is a wooded area.

Mr. Lewis said he understands there are trees and sometimes if you want a building you have to take trees down, it is a trade-off so it sometimes boils down to how badly do you want a structure, what are you willing to give up to get it. He said what we just determined is that there is no septic, well or leach fields in all of this area.

Mr. Bock said his well is on the side of the house right there, right in that area and referred to a side plan.

Mr. Lewis okay. He said his lot goes from 150 deep to 195 deep so there is no way in the world he can have this without encroaching the front setback of the house and asked what is between the front of this and the house, it is your lawn right.

Mr. Bock said no there is about 25' of lawn and then 25' area of trees, four or five large trees right here in this area, and behind here it is clear.

Mr. Lewis asked if this is a view in from your yard.

Mr. Bock said yes this is standing from the back of the house, that is a tree with a thermometer and some Hostas and stuff around there, there is the clearing area that is behind here and there is one, two, three or four trees there.

Mr. Lewis said so this isn't the clearing area there.

Mr. Bock said no the clearing area is behind this area which that area also has a little swale to it, about a foot drop.

Mr. Lewis asked if these go on a sled base, like four by fours.

Mr. Bock said yes and as far as a shed placement in his backyard that is the least visible in this location and he has had discussion with his neighbors before about how they don't like seeing things up his driveway because his driveway is right in line with Traymore Drive so this little wooded area makes a nice little area to satisfy his neighbors and it also satisfies him because it is in a topographical highest location with heavy rains or waters or anything like that.

Mr. Lewis asked if there is anyone else with any interest in this application.

Ms. Linda Barnard of 17446 Traymore Drive testified that she does. She said she lives on Traymore Drive and she didn't know anything about this, she came here for something else tonight and she wants to know how big the shed is, is it 10 x 16.

Mr. Bock replied yes.

Ms. Barnard asked if it is going to be in the backyard.

Mr. Bock said yes right here in the corner.

Ms. Barnard said as long as it is in the backyard and not in the greenspace where you (Mr. Bock) wanted to build something earlier.

Mr. Bock said yes you guys shot that down.

Ms. Barnard said she knows we shot it down.

Mr. Lewis asked what greenspace.

Ms. Barnard said he has got a treed area in the front on the side when you pull into Trillium and he wanted to put in a huge building and we shot him down.

Mr. Lewis asked in this area here.

Ms. Barnard said yes, we said no and added that they only have 19 homes.

Mr. Lewis said you don't want to take trees down but you have another building you wanted to put there.

Mr. Bock said 16 years ago he did, yes.

Ms. Barnard said their community is so small so we have to try to protect each other and that is what she is doing.

Mr. Lewis said so you kind of got the gist of where the proposed building is going.

Ms. Barnard said yes and it is also in the back.

Mr. Lewis said it is behind the house. He said the only thing is really up for discussion right now is his request for a rear yard setback variance and he wants a reduction from 90' to 5'.

Ms. Barnard said as long as it is in the back and not on the side.

Mr. Lewis asked if there is somebody else back there.

Ms. Nancy Hammel of 17460 Trillium Drive testified that she agrees with Ms. Barnard and if it is in the back it wouldn't impact on the ambiance of the entrance.

Mr. Murphy said he would like to get confirmation on all of these neighbor letters.

Mr. Bock asked didn't you send letters to be here tonight.

Mr. Lewis said it is not sworn testimony. He said we will call on them in a minute to see if they are here but Mr. Murphy brings up a good point. He asked if Arleen Morganroth is here.

Mr. Murphy said the President of the HOA is Kevin Bock.

Mr. Bock said that is him.

Mr. Murphy said you are President of the homeowner's association.

Mr. Lewis said you approved yourself.

Mr. Bock said he talked to some residents.

Mr. Murphy said all of the letters look like your handwriting, he hates to be rude and everything but these look like pieces of paper all written by one person. He said there is one by Daniel Lastoria.

Mr. Lewis asked if he is here.

Mr. Bock said no, he is not here.

Mr. Lewis said none of these can be entered into testimony because they are not here and as far as the homeowner's association, you are the president. He asked if there is an architectural review board for your HOA.

Mr. Bock said no we do not.

Mr. Lewis asked how many people are on the board.

Mr. Bock said they have three.

Mr. Lewis asked if they had a meeting on this.

Mr. Bock said no, he just discussed it with some neighbors around.

Mr. Lewis said but your board on behalf of your homeowner association did not have a meeting with regards to this.

Mr. Bock said no.

Mr. Murphy said he thinks we need to hear from the whole board, neighbors, we have Morganroth's letter and added these are all handwritten pieces of paper and he would vote no if you want to keep going tonight.

Mr. Bock asked what the board does to subpoena them in here, do you physically drag them in here.

Mr. Gutoskey said you could get their statements notarized.

Mr. Murphy said that would be fine but it seems that it is a conflict of interest if you are requesting this and you are the head of the organization and the whole group didn't actually meet on this and there are some neighbors that are a little bit worried and he wonders wouldn't it seem a little strange to you. He asked if the shed is already built.

Mr. Bock said it is not even purchased yet.

Mr. Murphy said let's take care of all of these little loose ends because it seems like there is a lot of them.

Mr. Gutoskey said maybe you could have a quick meeting of the board.

Mr. Murphy said instead of 5' maybe you could do 10', we hardly ever give 5' for anybody, to be honest, with 5' you are dripping the water on the neighbor's property etc. and those neighbors aren't here, he gets that they don't have to be here, they get a letter and they might be in Florida or they just don't care, he gets that too. He said there are a lot of things floating around here that seems different than a typical application for a variance.

Mr. Bock asked what he needs to do then, notarize these statements.

Mr. Murphy said or your board could have a meeting and somebody signs off, other than you.

Mr. Lewis said if these other people are really your expert witnesses it is on you (Mr. Bock) to bring your expert witnesses here so that you have got testimony for this board.

Mr. Murphy said or you can put it in the big wooded lot.

Mr. Bock asked on the side yard. He said homeowner's association said it has to be in the backyard, no side yard.

Mr. Lewis said so your homeowner's association has a document that says all accessory buildings need to be located behind the house or within the shoulders.

Mr. Bock said yes.

Mr. Lewis told Mr. Bock that he should bring the document with him too.

Mr. Bock said alright.

Mr. Murphy said to bring the whole homeowner's association or at least have a signed document from everybody there. He said you have a difficulty, absolutely and we see that, you have two front yards and two backyards.

Mr. Gutoskey said the way our code is you have two rear yards and two sides.

Mr. Lewis said it puts it at 90' on both sides of the house which really means it would have to be here, he referred to a site plan. He asked if the board wants to continue this because there is not enough documentation. He said in looking at the topography, yes you have a 2' span but you have a 2' drop over 100'.

Mr. Gutoskey asked Ms. Endres to bring up the aerial from the northeast corner of his house to the contour lines of the west house.

Mr. Lewis said that is the highest point but the grade is steady throughout the lot. He closed the public hearing portion of this application.

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

Motion BZA 2017-26 – 8483 Trillium Drive

Mr. Lewis moved to table this application to the next regularly scheduled meeting to be held October 19, 2017.

Mr. Gutoskey seconded the motion.

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

Application 2017-27 by Federated Church by Amy Eugene, Senior Director of Operations for property at 16349 Chillicothe Road

The applicant is requesting a renewal of a previously granted conditional use permit for the purpose of a YMCA day camp. The property is located in a R-5A District.

Mr. Lewis stated that the Federated Church is requesting a conditional use permit renewal and they are also requesting some additional modifications to the conditions.

Ms. Ann Lentz of the Federated Church and Ms. Cyndi Larned of the YMCA were present to represent this application.

Ms. Ann Lentz testified that she would like Ms. Larned to report on the success of the camp and we asked that the board grant the ability to have the camp at the Federated Church again.

Mr. Lewis said maybe before we get to you because you are the property owner and you are renting it to this group let's talk a little bit about the property and our last meeting, one of the things that came up in conversation that was related to this was the property landscaping as per the conditions on the original application which had to do with berming and tree planting and he believes that would be on the northern border of the lot.

Ms. Karen Endres, Zoning Inspector testified by saying yes, there are provisions also that there is buffering on the southern border and she walked the property on June 9, 2017 with the approved site plan from the former zoning inspector and it complies with that site plan.

Mr. Lewis said so we needed to establish that because that was one of the original conditions that follow you as the property owner. He said it came up in conversation so yes our zoning inspector did go out and fully inspect the property and those conditions as stated were met. He said as long as we have a moment with Ms. Endres, our zoning inspector, before we get to the application, last summer a conditional use permit was issued for the purposes of the YMCA to hold a camp for some very finite dates and there was some pretty specific set of restrictions on the use of the property as to what areas and what times and so on. He asked Ms. Endres if the township received any formal or informal complaints during the duration related to this group.

Ms. Endres said she had nothing formal and nothing informal, no phone calls and when she was out there to take a look at the way the camp was run, everybody was inside and everything was being conducted the way she expected it to be conducted.

Mr. Lewis said on those two matters does anybody on the board have additional comments before we here the presentation request from the YMCA.

Ms. Cyndi Larned testified that she is from the Geauga YMCA and she has a document that the board was given and referred to page four talking about the area that they were using and the schedule of dates. She said the camp as of right now she knows what the last day of school is for the Chagrin Falls Schools which is what they would base their start date on, but she does not know what their last day of school is yet, they have not approved their calendar so what they would be looking for is their scheduled days off in the summer, typically it is 10 – 11 weeks and she thinks they were at 51 days this summer as what they planned. She said on page 32 once their license was approved by the state we are limited to the capacity for that property for the usage of that building to 60 kids per day so they can take no more than 60 children.

Mr. Lewis asked what the enrollment was like this past summer.

Ms. Larned said she can speak to that with an average, the orange is the weekly average and the yellow speaks to what the one day high enrollment was for each of the days. She said their hours of operations haven't changed, they would continue running from 7:00 AM to 6:00 PM and they are always closed on the Fourth of July and they would like to discuss the outdoor usage and modify that just a little bit and the only other thing that would probably change that we would ask to change is that we have ourselves off-site on Thursdays which typically is an on-site day but we removed ourselves from the property and had to pay rent at an outside pavilion to use that space and would like to preserve it to go to the Popcorn shop and then back to the facility so on page four you reference what the summary of the daily schedule would be and those times indicated when they would be offsite which if you remember from the original proposal these are the times she had originally given the board and then they came back and asked for the continuance. She said they were essentially off by 9:00 - 3:00 every day. She said in addition to the camp dates they would like to add to a usage what they call "Schools Out Fun Days" so those would be in accordance with what the regularly scheduled days off from school are like today and tomorrow are days off for Chagrin, today was for Rosh Hashanah, tomorrow is a professional development day for the teachers so we would like to provide what we call a mini camp so we can provide care for the parents on those days when the kids are not in school.

Mr. Lewis asked how you differentiate between a mini camp and a daycare.

Ms. Larned said they don't they would expand their license to include those school days, she is trying to put it in perspective to you so you can come today and not tomorrow, it is a little bit more flexible so when you sign up for a mini camp it is for the parents anyway. She said those numbers as far as the number of children that they would take would be the same, they are averaging 50 per day so she is saying maybe half.

Mr. Lewis asked how many of those schools out days are there.

Ms. Larned referred to page four on the bottom, the program summary, she thinks there were 24 but they can exclude today and tomorrow because they are already gone obviously so there is a day in October, a day in November, four or five days in January, some days in December. She said the days that they would not accommodate care for parents would be Labor Day and Memorial Day so those days we wouldn't offer care and to keep in mind they are based on the school year.

Mr. Lewis asked if that is for Kenston.

Ms. Larned said for both and it depends on Chagrin however she did include all of her camp counselors in an email asking who would be interested and she had several of the Kenston kids that were interested and so are some of her Aurora parents. She said some of those days won't accommodate the kids at Kenston because their days off are not the same.

Mr. Lewis said he gets that but it is located in Bainbridge but we are not accommodating Kenston, we are accommodating Chagrin Falls.

Ms. Larned said she can speak to that. She said the staff that would be working those “Schools Out Days” are the same staff at the before and after care program so if Kenston doesn’t have school and Chagrin does then those staff will be at the before and after care program in Chagrin. She asked if that makes sense.

Mr. Lewis said yes or put the other way if you don’t have a date list but it is a Kenston day off.

Ms. Larned said they would not be holding the program.

Mr. Lewis said there would not be a program for a Kenston kid on a Kenston day off.

Ms. Larned said correct and added they would have the dates.

Mr. Lewis said just to review, the “Schools Out Days” would mirror the same hours of your regular summer hours.

Ms. Larned said yes, 7:00 AM to 6:00 PM.

Mr. Lewis asked what they are going to do with them in the middle of the winter when you lock them in the building for six hours.

Ms. Larned said six, longer than that.

Mr. Lewis asked what is going on.

Ms. Larned said it is the same thing they did all summer.

Mr. Lewis said during the summer you had the use of the outdoor front fields.

Ms. Larned said for an hour a day which they adhered to. She said there is a regiment and curriculum and it is a structured schedule for those kids and they are playing games, they are in the gym, we have visitors come in like on-site field trips, we do a lot of that the last week of camp this summer because we didn’t have access to our bus driver so we brought in people, had the parks come in and did all kinds of things with them. She said they have had staff come out actually from the YMCA, someone came out and did yoga, we set up an obstacle course one day, they are not sitting home watching TV.

Mr. Lewis said it looks like during the Christmas break you have a one week long segment and until you get into Spring break there is not a lot of long segments other than the first week in January.

Ms. Larned said it would be four days for that week.

Mr. Lewis said other than that for the most part they are random days or two day randoms.

Mr. Murphy asked if there are any neighbors here. He understands what they are asking for and it is not terribly different than what was allowed and what has been going on this year.

Mr. Lewis said he will open up the public hearing.

Mr. Jose Feliciano of 46 Wolfpen Drive, South Russell, testified that what they want to do now is they want to go back and create the problem and that is moving this thing in the back, the use of the back as opposed to the front is what the problem is. He said he explained to the board before that there is an amplifier effect back there where the noise just travels and so he doesn't want to go through all of this before just to refresh your recollection and he wants to make sure this is in the record so there was a hearing on May 18, 2017 and there was testimony there and he testified at that one and he wants to make sure that is in the record and then there was a hearing on June 16, 2017 plus his own submission pursuant to a federal statute that was in the record and was made a part of the record and he wants to make sure that is in there too. He said by way of summary the problem here is that we had a horrible situation ten years ago which was far worse than this, he understands that, but what it does is it underscores the problem and back then what would happen is, they had soccer games there where windows were actually shaking because of what kids were doing and people had to close their doors and they still could hear them. He said this is not that kind of racket but the problem is that when you use the back, and even this past summer, he was sitting in the back where he reads and the window was down, his wife doesn't like the air conditioning, and he heard the kids out there, because they are kids, it is a day camp, he understands, and he was going to call and complain but he thought it will be over in August so what is the big deal and so he bit his tongue and he wishes he hadn't, so he closed his window and went in the other room to read and from his point of view he ought to be able to read where he wants to and that is a specific example where it is an annoyance to him, it is not a big deal but how many times does he have to put up with that. He said he was gone a good part of the summer and that is one of those specific instances and that is even when you had it up front let alone using the back let alone expanding the time so you want me to believe that it is no big deal and they just want to continue the camp, yes they want to continue the camp but they want to expand the time and they also want to expand where this is to be located and if they run this thing on the inside then go ahead and do it, do whatever you want inside, that is not what the problem is, the problem is on the outside. He said just by way of summary you heard testimony of my own, Mr. Joe Franzese, he can't be here today, he is traveling but he had a similar experience he is off at 3:00 in the afternoon and comes home early and he hears the kids in his backyard and even now when they are in the front so what he is suggesting that you ought to do is if you decide to continue this, continue it as is, don't change the circumstances, we went through this whole process.

Mr. Lewis said the only thing in addition they have asked for other than some additional days is, there is two components here, one of them is they want to run their summer camp again, and on some staggered days during the winter which is not a whole lot different than last year. He said it is almost cloning it identically and the other component that they are asking us for is which is completely new and separate is they would like to use the playground. He said the playground happens to be located in the backyard.

Mr. Feliciano said precisely.

Mr. Lewis said which we all know was not included as one of the conditions in the original conditional use that we gave them and the permit that was associated with that.

Mr. Feliciano said correct, the playground and the expansion of the time.

Mr. Lewis asked the extra days.

Mr. Feliciano asked if they are changing the hours.

Ms. Larned said no.

Mr. Feliciano said the only issue is the location of the playground.

Mr. Lewis said the reason that the playground in the back was not up for grabs in the first place was to accommodate the surrounding neighbors so that we could keep any outdoor activities in the front where it is a very long distance to the road and we did verify that the berming etc. had been put in place so as far as he can tell that is what the Federated via the YMCA is asking for. He said two things, renew the summer program because the board gave them a one season time on it and they would like some extra winter days, they are still doing field trips, the kids are indoors most of the time, the only add-on is they want the rear playground, that is all he sees that is really before the board right now.

Mr. Feliciano told Mr. Lewis that he simplified this and that is correct but he just has to underscore that that is exactly where the problem was before and you had testimony from six people that he can recall with respect to the issue of the noise in the back and he can summarize that if the board wants but we had Joe Franzese, the Dippels were here, himself and we have another neighbor here that can talk to you about what he thinks is going to happen here, it is going to revert back to the original problem that we had before, the problem that you tried to abate by putting it in the front.

Mr. Lewis said we went to great lengths for many, many hours.

Mr. Feliciano said he knows the board did.

Mr. Gutoskey said you missed the one meeting too.

Mr. Feliciano said he knows, he had a long term commitment with his grandson to go to Disney World, he was not going to cancel Disney World so that is why he went to all the time and effort to get a sworn statement under Federal Court and he made that submission to you and explained to you that he couldn't be here on that day.

Mr. Gutoskey said he was just kidding but he remembers that the submission was sent in.

Mr. Lewis asked if there is anybody else that wants to speak.

Dr. Joe Nally of 44 Wolfpen Drive, South Russell testified that Mr. Joe Franzese lives next door and for whatever reason, the trees and topography, what is in the back there is an amplification of noise, you can hear individuals speaking and luckily the prayer garden there is not a lot of speaking but you put a bunch of kids back there, even for whatever they come for, a birthday party, you know they are back there and so the change here is to include the back with up to 60 kids at a pop.

Ms. Larned said 18 kids at a time.

Dr. Nally said in his judgment the request would be we would like to have no YMCA activities in the back playground for outdoor activities.

Mr. Robert Dippel of 8672 Lake in the Woods Trail testified that he would like to emphasize the same thing, they were great church neighbors all summer long, we didn't hear anything, but that playground with 20 kids, whatever on there would be a total strain. He said he works downtown with steel mills all around him, scrap yards and he moved out there for the peace and quiet. He said if they expand into a daycare type situation don't things have to have fences around and aren't there other things that classify a daycare scenario and if so, could you move that playground to the front.

Mr. Lewis said it is noted sir.

Mrs. Susan Dippel of 8672 Lake in the Woods Trail asked if you have talked to any active school parents and asked if the outside time is going to be the same as it was this past summer.

Mr. Lewis said it would be identically consistent.

Mrs. Dippel said outside times would be an hour and one-half window.

Mr. Lewis said nothing has been changed for the hours for the program, additional days when the schools are closed, those random days, the only modification to terms and conditions that they are asking for beyond the additional days and the renewal itself to even have camp there next summer is just the use of that rear area playground equipment and in his eyes he doesn't really look at it as that equipment. He said the real consensus of what the board was after in the first place is there was going to be no rear yard activities so whether it is playing kickball or climbing on a swing set it was a big chunk of space that was out of bounds and once again the proximity of equipment is really a conversation for the renter and the landlord, the property owner to have. He said if the backyard is out of bounds you guys figure it out if you want equipment for the kids to play, put it in a permitted area. He asked Mrs. Dippel if he answered her question.

Mrs. Dippel replied yes, thank you.

Ms. Jan Nally of 44 Wolfpen Drive testified that she agrees with everything said. She said it seems to her that as a board your body, Bainbridge board, made a good decision to restrict activities in the back, that as neighbors is noted for the record.

Ms. Larned stated that some of you weren't here for the May hearing, the restriction of the playground equipment in the back in the rear of the property, she put that into the agreement, she wrote that in and said she wanted to show a good faith effort and you understand that we are not trying to disturb your life, we are trying to keep kids safe and keep them active and healthy and working through their summer so with that being said, in that same spirit, do we have to come back and see the board if we decide to move the playground equipment.

Mr. Lewis asked if you want to move the playground equipment.

Ms. Larned said yes, do we have to come back and see you.

Mr. Lewis said he wouldn't think so.

Ms. Larned said then she is going to take the rear usage off of the table for right now, take it off and she would like to continue the camp for next summer and she would like those additional days for the school year and we will discuss the playground equipment at a later date and we can deal with the front yard.

Mr. Murphy said you don't have to discuss it with us.

Ms. Larned said at least for tonight and we are trying to be good tenants and hopefully remain good tenants.

Mr. Feliciano stated that for the record he had a complaint and Mr. Joe Franzese complained too because he gets home at 3:00 in the afternoon. He said that was in the testimony of June 16, 2017. He said it doesn't mean that there were not other people because for example one of his neighbors said she is not coming back here anymore because of the frustration that she had so please understand that as well.

Mr. Lewis said the lease they are looking at expired in August 2017 and asked if there is a current lease.

Mr. Gutoskey asked how long the lease is for.

Ms. Larned said they don't have a lease with them right now.

Mr. Gutoskey asked how long they are negotiating for.

Ms. Larned said for the days they are off from school and then the length of camp and then they would renew that lease with them every year, whatever we get. She said they don't have one now because we didn't know where we were going to be.

Mr. Feliciano asked if they intend to keep coming back over and over.

Mr. Lewis said the board can't give a conditional use permit to somebody if they don't have a business arrangement. He said the current year, we will call it from, your tentative date was starting in late October.

Ms. Larned said October 13th would be the first date.

Mr. Lewis said let's go back to the starting date.

Ms. Larned said that would be today and tomorrow.

Mr. Lewis said from there to the end of your summer session.

Ms. Larned said correct.

Mr. Lewis said he is looking at a calendar term so the conversation we would be having might be from October 1, 2017 to September 30th and if we are going to pursue another conditional use permit for the summer camp days as put in and the projected "no school days" we roll for the next 12 months and that would mean that if it looks like you are going to want to repeat this again beginning the next school year, those school out days, then get your application filed in July or August and let's come back and a good time to do this might be in August because you've got September dates you would like to use a year forward from now.

Mr. Lewis continued by saying it also means that for the sake of the adjacent neighborhood you will have run your indoor stuff, you will have run next summer camp, he thinks it is appropriate to give everyone a chance to come in and have these conversations again and not that we are trying to put you on our docket every year but if your lease is going to be a year by year let's renew our visit every year.

Mr. Feliciano said he would like to say that part of the difficulty that he has is the disingenuousness of everybody here. He said you remember when they first came in here this was a temporary issue, this was going to be for this summer and you can go back and look at it and all of a sudden it is summer and winter, then it is the summer, the winter and the next summer and now we are talking about thereafter. He said he just wants to point that out that that is one of the challenges where he sits as a neighbor when he comes here and he listens to that and all of a sudden there is a multi-truth, problematic and he told the church this also, he will come and talk to the church, he will talk to the parish council, he will talk to whoever they want me to talk to over there but just looking at the transcript where they said they want to attend to the concerns of the neighbors and they want a dialogue and he made that offer and will make it again and then there are statements in there about how sensitive they want to be to the neighbors, well that is just terrific. He said you heard from him repeatedly, you heard from the other neighbors, why don't you call us and talk to us, why don't you call us and talk to us and say hey look, this was originally temporary, we have now decided we are going to extend it for the winter and now through next summer now you would think that a good neighbor would have done that, you heard the young man up here talk before, you know what he did, he went and he talked to his neighbors and he got a letter that you are asking to be verified but the point is he went and talked to the neighbors. He said he thinks part of the problem we have here is that you just can't do anything you want, there are limits, you might be a church but there are limits to it. He said let me give you a piece of advice why don't you talk to the neighbors.

Mr. Gutoskey said understand there is nothing in our code that says to do that. He said we approved this last year and we limited it to this summer to see how things were run.

Mr. Lewis said they are still on a session by session performance, very tight roped and that is why we checked in early with our zoning inspector just to be sure that there was no issues and not a peep and that is really good news. He said as far as he gathers on it, he grew up in a neighborhood, if you've got kids in the neighborhood you are going to hear kids in the neighborhood no matter what during the summer, it appears they ran a very good program, they lived up to all of their expectations, they did what they said they were going to do and they ran a successful program, enough that they are serving our community and parents and kids saying this is a good program and they hope they will do it again, it was nice so they know that it is a real narrow performance box that they have to work within and because of that they have a huge vested interest because they want to offer their program year after year so we are reviewing it on an annual basis, it is not just a 5 or 10 year carte blanche, he thinks it is fair checks and balances for everybody in the room. He asked if there are any more comments. He then closed the public hearing portion of the meeting. He asked for any comments from the board and asked if the church was able to get their garbage pick-up time augmented.

Ms. Lentz said yes, she believes they have.

Ms. Endres stated that she established that the garbage problem was fixed.

Mr. Murphy asked Mr. Feliciano if he would allow the YMCA to have a day camp there next year.

Mr. Feliciano said not with his experience, this is residential and when they came in here initially they had an emergency, school didn't want to have them there. He said from his perspective he thinks they should go to a school. He said the kids could run around and do what they want and not be in a residential neighborhood.

Mr. Lewis asked for a clarification, the original approval with regards to the outdoor activities was for one hour to occur between 4:30 PM and 6:00 PM.

Ms. Larned said correct.

Mr. Lewis said but for one hour somewhere within there and if we understand correctly you are asking for it to be between 3:30 PM and to end by 5:30 PM.

Ms. Larned said the reason she picked the earlier time slots is because she was asking for the playground and saying we were only taking 18 children at a time and that is because one staff can be with all 18 kids, it is just like a ratio rule and it would take us longer to get the kids back in which is why we are doing that.

Mr. Lewis asked if that is off the table the 3:30 to 5:30 and it stays from 4:30 to 6:00.

Ms. Larned said yes.

Mr. Gutoskey said unless you move the playground up front.

Ms. Larned said she could but what she was trying to do with the playground in keeping it to 18 so she was trying to keep it as few kids as she could with one staff person being out there because she obviously can't let them go by themselves. She said they didn't restrict the number of kids that were outside over the summer, she was doing that because they were accessing the back.

Mr. Lewis said what the activity is, it is going to occur in the front yard.

Ms. Larned said correct.

Mr. Lewis said which means you can process your entire group at once if that is what you want to do.

Ms. Larned said correct.

Mr. Lewis asked if she is still okay with the 4:30 to 6:00.

Ms. Larned said yes.

Mr. Murphy said and you are only using one hour of that.

Mr. Gutoskey asked her about the possibility of 3:30 to 5:30.

Ms. Larned said yes and if she could get the added time it is more functional for them.

Mr. Lewis said you can only use it for one hour.

Ms. Larned said she knows but leave it the way it was, let's do that.

Mr. Lewis said it stays consistent.

Ms. Larned said yes.

Mr. Lewis said so there is no change there.

Mr. Murphy asked before you were here, where was this YMCA camp.

Ms. Larned said at the Intermediate School, in town, in Chagrin and they were there three years.

Mr. Murphy asked if they could go back to the Intermediate School.

Ms. Larned said honestly, they love it at the Family Life Center, it was so much more conducive, she doesn't know what the new building is going to look like or what kind of space they will have for it, she doesn't have a crystal ball, she wishes she did but they love it at the Family Life Center.

Mr. Robin Harbage, Moderator at the Federated Church testified that in addition to doing the right thing for the kids and what this is doing, it is extending the Federated's philosophy being outreach and they are very pleased with having the YMCA as a tenant there and he thinks something that really struck him was the economic value in Bainbridge and he personally knows a graduating senior from Kenston and he is now in college because he could afford it so he thinks it is great for the kids to participate and great for the economy and there is a real diamond here behind this.

Mr. Feliciano said you raised the question of economics, how about when I try to sell my house in the back, I have a YMCA daycare and do you think that enhances the value of my property. He is not just saying the economic value, he thinks it is a risk for him.

Mr. Lewis thanked everyone for their comments.

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

Motion BZA 2017-27 – 16349 Chillicothe Road (Federated Church Family Life Center)

Mr. Lewis moved to grant a renewal of the conditional use permit for the YMCA use for the period of October 1, 2017 through September 30, 2018.

1. This encompasses initially an exact renewal of the use that was granted this last summer for the camp to take place with the already listed terms and conditions and use and times, activities and schedules as was granted for the use of the property this past summer.
2. Additionally as a modification the board would like to add the approximately 24 days during the school year that are “No School Days” and a list of those proposed dates has already been submitted by the applicant with the understanding that a day may change here or there but they are planned scheduled no school days, they are not snow days.

Based on the following findings of fact:

1. The program was under a trial conditional use permit with this past summer and they performed wonderfully.
2. They did adhere to the scheduling and the group activities that was all previously agreed on so it pretty much is an exact repeat.
3. Once again to enter it into the record the out of building activities will be restricted to the front yard and there is no rear yard use for any of these youth activities.

With the following condition:

1. As a condition for the approval of this permit Bainbridge Township through the zoning inspector will need a copy of the current lease on file which does validate that this tenant in fact will be using the property and facility for that term.

Mr. DeWater seconded the motion.

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

Since there was no further testimony, the public hearing was closed at 8:45 P.M.

Respectfully submitted,

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

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

Date: October 19, 2017

AUDIO RECORDING ON FILE

Bainbridge Township, Ohio
Board of Zoning Appeals
September 21, 2017

The regular meeting of the Bainbridge Township Board of Zoning Appeals was called to order at 8:45 P.M. by Mr. Todd Lewis, Vice Chairman. Members present were Mr. Michael Corcoran; Mr. Ted DeWater; Mr. Joseph Gutoskey and Mr. Mark Murphy. Mr. Michael Lamanna was absent. Ms. Karen Endres, Zoning Inspector was present.

Minutes

Mr. Murphy moved to adopt the minutes of the August 17, 2017 meeting as written.

Mr. Gutoskey seconded the motion.

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

New Business

Mr. William Koons, Mayor of South Russell Village met with the board to discuss meeting quorums and the use of alternate members for the Board of Zoning Appeals.

Applications for Next Month

Application 2017-26 by Kevin Bock for property at 8483 Trillium Drive - Continuance

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

Application 2017-30 by 7-Eleven, Inc. for property at 17644 Chillicothe Road

The applicant is requesting a review and renewal of an existing conditional use permit for the purpose of operating a gas station and convenient store. The property is located in a CB District.

Application 2017-31 by Janna Lutz for property at 7170 Chagrin Road

The applicant is requesting a substitution of a non-conforming use for the purpose of furniture repair. The property is located in a R-3A District.

Application 2017-32 by AER Chagrin, Inc. for property at 8405 Bainbridge Road aka 17800 Chillicothe Road

The applicant is requesting a review and renewal of an existing conditional use permit for the purpose of a dog daycare and boarding. The property is located in a CB District.

Application 2017-33 by Diana Wiebusch for properties at 18389 and 18399 Geauga Lake Road

The application is requesting area variance(s) for the purpose of lot splits and consolidations. The property is located in a R-5A District.

Application 2017-34 by Travis Owens/Prestige Service All LLC for property at 17800 Chillicothe Road

The applicant is requesting area variance(s) for the purpose of establishing an auto repair facility. The property is located in a CB District.

Application 2017-35 by Travis Owens/Prestige Service All LLC for property at 17800 Chillicothe Road

The applicant is requesting a conditional use permit for the purpose of establishing an auto repair facility. The property is located in a CB District.

Application 2017-36 by David and Melissa Willkomm for property at 8173 Quarry Circle

The applicants are requesting area variance(s) for the purpose of constructing an in-ground swimming pool and patio. 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 19, 2017 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 9:15 P.M.

Respectfully submitted,

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

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

Date: October 19, 2017