

Bainbridge Township, Ohio
Board of Zoning Appeals
October 21, 2004

Pursuant to notice by publication and certified mail, a public hearing was called to order at 7:40 P.M. by Mr. Michael Lamanna, Chairman. Members present were Mr. Todd Lewis, Mr. Mark Olivier and Mr. Donald Takacs. Mrs. Ellen Stanton was absent. The following matters were then heard:

Mr. Lamanna swore in all persons who intended to testify.

Application 2004-32 by Mark L. DiSanto for property at 9311 Taylor May Road - Continuance

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

The zoning inspector's letter dated September 7, 2004 was read and photos of the site were submitted.

Mr. Mark DiSanto was present to represent this application.

Mr. DiSanto testified that this is continued from the last meeting and the variances requested are 19' and 11' and said the shed is 31' off the side property line and 79' off the rear property line but it is not bothering anyone and he is hoping the board will let the shed stay where it is.

The board reviewed the new site plan submitted by the applicant showing where the septic field is located on his lot and photos of the property.

Mr. Olivier asked if the shed in the photo is the shed in question.

Mr. DiSanto replied yes.

Mr. Olivier asked if the shed is 31' off the property line.

Mr. DiSanto said yes, instead of 50' off the side it is 31' and instead of 90' off the rear it is 79'. He said he did not want to go into the septic area.

Mr. Takacs asked what the distance is from the house to the septic field.

Mr. DiSanto said he did not know because the septic area is hand drawn and if he has to move it he will have to cut a tree down.

Mr. Lewis said at the last meeting, the site plan showed another proposed shed for the property.

Mr. DiSanto said he will get another permit for that one.

Mr. Lewis said the board talked about that and because that was an okay site for a future building, it would be okay for this shed.

The board discussed the drawing of the septic field.

Mr. DiSanto asked what the problem is with leaving the shed where it is now because it is out of site and away from the septic system.

Mr. Lamanna said a rear yard variance is needed because the setback cannot be met.

Mr. DiSanto said he would have to cut so many trees down.

Mr. Olivier said the shed needs to be moved over another 19' to the setback of 50'.

Mr. Lewis read from the testimony of the previous meeting where the board discussed moving this shed to the proposed location of another shed and that Mr. DiSanto had already cleared trees in that area.

Mr. Lamanna said there is a practical difficulty for the rear yard setback adjustment but there is no reason for not placing the shed at 50' off the property line.

Mr. DiSanto said it would be more exposed.

Mr. Lamanna said he does not see how the shed can be more exposed by moving it to the center of the property.

Mr. DiSanto said he is concerned about the neighbors to the right of him.

Mr. Lewis said the board would be more than willing to give him a rear yard setback variance.

Mr. Takacs asked what the setback is of the house.

Mr. Lamanna said it is 50' off one side and 43' off the other side.

Mr. Lamanna explained that the board would be more willing to grant a variance if the shed were behind the house.

The board discussed the rear yard setback and the variance requested for that.

Mr. DiSanto said if he has to move the shed he will have to cut some big trees down and he does not want to do that because trees help absorb water from the septic fields.

Mr. Olivier said that where the other shed is proposed, trees were cleared.

Mr. DiSanto said he cleared some brush there.

Mr. Olivier asked if the shed could be slid back in between the trees.

Mr. DiSanto said it is 8' wide x 16' long.

Mr. Olivier said he is trying to understand the tree line.

The board discussed the photos submitted.

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

Motion BZA 2004-32 – 9311 Taylor May Road

Mr. Lamanna made the following motion:

1. To grant the applicant, with respect to the rear yard setback, a variance from the minimum required rear yard setback of 90' to 70' for a variance of 30'.
2. To deny the requested variance for a side yard setback.

Based on the following findings of fact:

1. The rear yard setback variance is a practical difficulty because there is an existing septic leach field that prevents the shed from being any farther from the rear property line otherwise it would be on the leach field.
2. The reason for denying the side yard variance is that the applicant has not demonstrated any practical difficulty and there would appear to be an ample opportunity to place this 8' x 16' shed within the permitted side yard setback requirements of 50'.

Mr. Takacs seconded the motion.

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

Application 2004-37 by Sean F. Neligan for property at 18919 Riverview Drive -
Continuance

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

The zoning inspector's letter dated September 7, 2004 was read and photos of the site were submitted.

Mr. Lamanna noted that this is a continuance from the September meeting.

Mr. and Mrs. Sean Neligan were present to represent this application.

The board reviewed the new site plan submitted by the applicant and was in agreement that Mr. and Mrs. Neligan did a good job moving it to 42' off the property line.

Mr. Lamanna said that it looks good.

Mrs. Neligan said that Mr. Orłowski helped them with the placement of the proposed shed.

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

Motion BZA 2004-37 – 18919 Riverview Drive

Mr. Lamanna made a motion to grant the applicant the following variances for a proposed 10' x 12' shed:

1. A variance from the minimum required side yard setback required of 50' to 42' for a variance of 8'.
2. A variance from the minimum required rear yard setback requirements from 90' to 49' for a variance of 41'.

Based on the following findings of fact:

1. A practical difficulty exists because the applicant has an extremely unusually shaped lot with a river running through it with a steep decline to that river which forces the house to be pressed to the south side of the property.
2. The house itself is only setback 62' from the rear property line and the entire depth of the lot is only approximately 140'.
3. Due to the irregular sized shape of the lot and the fact that the lot line tapers to the back, it would be impossible to get 50' from the side yards, but the proposed location of the shed is very nearly within the projection of the existing structure and thus would not adversely affect the neighbors to either side.

Mr. Takacs seconded the motion.

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

Application 2004-38 by Boyer Signs & Graphics for Cowboy Restaurant for property at 8586 East Washington Street - Continuance

The applicant is requesting area variances for the purpose of installing multiple signage. The property is located in a CB District.

The zoning inspector's letter dated September 7, 2004 was read and photos of the site were submitted.

Mr. Cliff Hershman and Mr. Michael Longo were present to represent this application.

Mr. Lamanna noted that this is a continuance from the September meeting.

Mr. Hershman testified that the board requested that the applicant try to make it one sign but they cannot do it because of the cutout on the sign and the downspouts are in the way. He said there is no practical way to do it and now that the restaurant is up, they would like to add "Bar-B-Q" and "Live Music" up there.

Mr. Lewis said it looks like separate units.

Mr. Takacs said that the Cowboy sign has Food and Drink on it.

Mr. Longo testified by saying yes.

Mr. Lamanna asked if they are still looking for two extra signs.

Mr. Longo replied yes.

Mr. Lewis asked how they are on square footage.

Mr. Takacs said they are okay.

Mr. Lamanna said that everybody wants multiple signs and what reason do we tell the next person that wants them and added that something needs to be compelling.

Mr. Longo said if the stores were broken up, there would be multiple signs (multiple tenants). He explained that there will be a flow and it will look great.

Mr. Lamanna said there is no sympathy for the "Bar B Q" sign, but the "Live Music" is different.

Mr. Hershman said that "Bar B Q" brings out the restaurant part.

Mr. Takacs said there is Food and Drink on the main sign.

Mr. Lewis suggested using the company name as the sign versus the menu.

Mr. Longo said they would hang a sign on the inside.

Mr. Takacs asked if these proposed signs could be connected with the Food and Drink on the Cowboy sign.

Mr. Hershman replied no because of the cut-outs on the sign. He said he has a letter from Boyer Signs and added that “Live Music” with the entrance sign would look really good.

Mr. Takacs said he did not want multiple signs.

Mr. Olivier said that “Live Music” is unique and the restaurant is set up for it and it will be more of an integral part of the business.

Mr. Longo asked if he could put neon signs in the window.

Mr. McIntyre told Mr. Longo to call him on Monday.

Mr. Lewis said he could live with the “Live Music” sign.

The board discussed where the “Live Music” sign should be located and said it would be more balanced to the left.

Mr. Longo said he would rather have “Live Music” where the “Bar B Q” sign was because that is where the stage is.

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

Motion BZA 2004-38 – 8586 East Washington Street (Cowboy Restaurant)

Mr. Lamanna made a motion to grant the applicant a variance to have a second sign on the premises saying “Live Music” which will be located where the “Bar B Q” sign is currently shown on the drawing.

Based on the following findings of fact:

1. The applicant is well within the current signage allotment.
2. “Live Music” is a different and unusual facet of the restaurant business.
3. As it is located, it is nearly integrated in with the existing sign and to try to move it any closer to the existing sign is not possible because of the existence of the downspout on the building that would partially block the sign if it was moved any closer.

Mr. Takacs seconded the motion.

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

Application 2004-43 by Daniel J. & Frances Liptak for property at 18340 Snyder Road

The applicants are requesting area variances for the purpose of constructing a shed. The property is located in a R-5A District.

The zoning inspector's letter dated October 14, 2004 was read and photos of the site were submitted.

Mr. and Mrs. Liptak were present to represent this application.

Mr. Liptak testified that he is requesting a side yard variance and asked if the board saw the leach field on the site plan.

Mrs. Liptak testified that the leach field is basically why they need a variance.

The board reviewed the application and photos submitted.

Mr. Lamanna asked if the applicant has an existing shed.

Mr. Lamanna said it will be gone when he finds a place to get rid of the stuff in it.

Mr. Lamanna asked if the existing shed is in compliance.

Mr. Liptak replied no and said he does not think it is and it was built in 1977.

The board reviewed the site plan submitted.

Mr. Takacs asked what the distance is between the two sheds.

Mr. Liptak said a couple of feet.

Mr. Takacs said the existing shed is close to being in compliance.

Mrs. Liptak said it would be in compliance if it weren't for the septic system.

Mr. Olivier said it looks like the current shed is on the leach field.

Mr. Liptak said it is behind the leach field.

Mr. Lewis asked if this building is up already.

Mr. Liptak replied no.

Mr. Lamanna asked where the current shed is.

Mr. Liptak said it is behind the leach field.

Mr. Lamanna said the proposed shed could be relocated and it would not have to go over the leach field.

Mrs. Liptak said the new shed will come in on a big truck.

Mr. Takacs said the truck could go back there easily.

Mr. Lamanna said the applicant may want to get rid of the existing shed first.

Mr. Liptak said he would not have any place for the stuff.

Mr. Lamanna said it could be removed the day the shed arrives and there is nothing that says this shed cannot be placed 50' from the property line.

Mr. Liptak said he does not feel he is asking for a lot and added that he has lived there for 27 years.

Mr. Lamanna explained that the board of appeals does not make the rules, they grant variances if there is a legal standard and in his case there is nothing in the way.

Mrs. Liptak asked what if they damage the leach field when the new shed is delivered.

Mr. Lamanna told them they have to be careful because there is plenty of room there to deliver it and put it in place.

Mr. Lewis said trucks are about 12' wide.

Mr. Takacs said the wheels are about 8'.

Mrs. Liptak asked what the verdict is.

Mr. Lamanna said the board is not going to grant this variance.

Mrs. Liptak asked if they can have their money back.

Mr. Lamanna replied no.

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

Motion BZA 2004-43 – 18340 Snyder Road

Mr. Lamanna made a motion to deny the applicant's request for a side yard variance.

Based on the following findings of fact:

1. The applicant has not demonstrated any practical difficulty.
2. It appears from the evidence before the board that the shed could be placed as such that it could comply with the setback requirements.

Mr. Takacs seconded the motion.

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

Application 2004-44 by Steven B. Huckabee for property at 16715 Findlay Street

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

The zoning inspector's letter dated October 14, 2004 was read and photos of the site were submitted.

Mr. Steven Huckabee was present to represent this application.

Mr. Huckabee testified that he can put the shed anywhere the board wants him to.

Mr. Lamanna said that this is a different situation.

Mr. Huckabee said all of the lots in the back of his house belong to his mother.

Mr. Takacs said the lot is 105' x 100'.

Mr. Huckabee replied yes.

Mr. Lamanna asked how far the house is from the street.

Mr. Huckabee said 15' – 20'.

Mr. Lamanna said there is not a problem with the side yard setback and 15' off the back is consistent with what the board has done in the same situation.

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

Motion BZA 2004-44 – 16715 Findlay Street

Mr. Lamanna made a motion to grant the applicant the following variances for purposes of building a 10' x 12' accessory building:

1. A variance from the minimum required side yard setback of 50' to 15' for a variance of 35'.
2. A variance from the minimum required rear yard setback of 90' to 15' for a variance of 75'.
3. A variance from maximum lot coverage of 10% to 10.78% for a variance of .78%.

Based on the following findings of fact:

1. A practical difficulty exists because the applicant has a 100' x 105' lot and since the lot is only 105' wide it is impossible to meet the setback requirements but this is located approximately in the center of the property.
2. Due to the shallow nature of the lot there is only a small existing backyard so that 15' is reasonable and is also consistent with other construction in the immediate area and also for that reason the board determined that this will not adversely affect any of the neighboring properties.

Mr. Takacs seconded the motion.

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

Application 2004-45 by Eileen & Mitch Herman for property at 8264 Summit Drive

The applicants are requesting area variances for the purpose of constructing a new single family dwelling. The property is located in a R-3A District.

The zoning inspector's letter dated October 14, 2004 was read and photos of the site were submitted.

Mr. and Mrs. Herman and Mr. Steve Ciciretto were present to represent this application.

Mr. Ciciretto testified that the application reads as a new house but that was not originally the intent. He said they wanted to do a renovation but as they got into the construction on the building, it opened up a can of worms and under professional expertise, the best procedure was to tear the building down. He added that the foundation had no footer and the site is fully rock. He said they tried to excavate around the building and the Hermans spent in excess of \$10,000.00 to remove the rock so they could build. He continued by saying the Lake Lucerne ARB approved this and there is no change to the elevation except they added a couple of more courses of masonry and the variance is from the R-3A zoning. He submitted the demo drawings to the board and said they wanted to save the chimney, but the building inspector wanted them to tear it down and it falls in the area of other houses in Lake Lucerne.

Mr. Takacs asked if there is a basement.

Mr. Ciciretto said yes but it will be shallow and we believe there is a standard of practical difficulty demonstrated here and we thought out the plan and everyone enjoys the elevation as it looks and there is quite a bit of separation between the houses. He added that they did not want to get too close to the house on the west because it drops off.

Mr. Lamanna asked about the existing footprint and if the front is where the front was before.

Mr. Ciciretto said that is correct.

Mr. Olivier asked if the plans were submitted to the Lake Lucerne ARB.

Mr. Ciciretto replied yes and the footprint is the same and added that Mr. Mike Carter is here.

Mr. Mike Carter, Vice President of the Lake Lucerne Club Co. testified that he is the liaison for the ARB and they did hear the case originally and were made aware of the problem and the ARB endorsed what they are doing because of the difficulties involved.

Mr. Lewis asked if the house was demolished because it was not structurally sound.

Mr. Ciciretto said yes because the walls were 2 x 2s and not suitable for bearing walls and they were trying to convert the house into a full living space but could not and they fully intended to renovate but it was very difficult. He added that Richard and Doni Kay's house had the same issues so they had to tear that one down and re-build.

Mr. Herman testified that they had a house in Lake Lucerne but moved to Arizona and moved back and they had a lot of support in the neighborhood and a lot of friends and they met with the ARB and the neighbors and will keep the house within the character of Lake Lucerne.

Mr. Lamanna said it is a vacant lot with an existing foundation that cannot be moved and added that Repke's house is further away.

Mr. Ciciretto said they intend to buffer that area.

Mr. Lamanna said this is probably the best location for the house anyway.

Mr. Bill Repke testified by saying he wants to praise them for their effort to work this out but his concern is the hill that is sloping, in case he is not here in the future, because they had to cut into the hill to move the water around the house and asked if they have this addressed because the water comes off the hill from the east to the west and said that he is piping everything around his house to the ditch. He added that they have made incredible efforts and he does not want to add to their burden.

Mr. Ciciretto said they chose to treat the property with grading and storm water management.

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

Motion BZA 2004-45 – 8264 Summit Drive

Mr. Lamanna made a motion to grant the following variances:

1. A variance from the minimum front yard setback of 100' to 50' for a variance of 50'.
2. A variance from the minimum side yard setback, on the east side, of 50' to 10' 6" for a variance of 39' 6".
3. A variance from the maximum lot coverage of 10% to 18.1% for a variance of 8.1%.

Based on the following findings of fact:

1. A practical difficulty exists because it is a lot in Lake Lucerne (a 200' x 150' lot) so it is substantially smaller than the required three acres being approximately .7 acres.

2. The lot also formerly had a house on it and it also has a substantial amount of rock close to the surface which makes it difficult to relocate the house building site.
3. The 50' front yard setback is consistent with the other houses that exist in this part of Lake Lucerne.
4. The 10' 6" side yard setback is consistent with the side yard setbacks in Lake Lucerne.
5. Due to the location of the houses on either side, this house ends up being reasonably centered between the two of them and on the short side of the variances granted, the existing house is located a significant distance from the property line.
6. Due to the small size of the lot, the board needs to grant a variance to the overall lot coverage and this house is slightly larger than the prior house that was there but is still a reasonably sized house consistent with the neighborhood.
7. It is the board's determination that these variances are consistent with those in the neighborhood and therefore will not adversely affect either of the neighboring properties.
8. The board also notes that the applicant is taking certain steps to deal with potential rain water run-off due to the hill slope in the areas where additions have been made to the structure that previously existed.

Mr. Takacs seconded the motion.

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

Application 2004-48 by Carmen J. Gaitan for property at 9225 Willson Drive

The applicant is requesting an area variance for the purpose of constructing a detached garage. The property is located in a R-5A District.

The zoning inspector's letter dated October 14, 2004 was read and photos of the site were submitted.

Mr. Carmen Gaitan was present to represent this application.

Mr. Gaitan testified that he was here at last month's meeting and was granted a variance but when he checked with the county health department regarding the location of his septic system he found out the proposed garage would be on his leach bed and he would like to move it over 10' from the original location.

The board reviewed the new request.

Mr. Lamanna asked where the existing driveway is.

Mr. Gaitan showed the location of the existing driveway on a photo he provided. He showed the board, per the photo, the formerly approved area and the location of the leach fields and said he would like to shift the garage over to get away from the leach fields and noted that he has trees, an existing swimming pool and is already 253' back from the road.

Mr. Lamanna asked how close the neighbor's house is.

Mr. Gaitan said it is 60' over from the line.

Mr. Lamanna asked if the garage will be 4' from the house.

Mr. Gaitan said yes and it was 2' from the house before.

Mr. Lamanna asked if the garage will be about 4' from the leach field.

Mr. Gaitan said yes and it would be 30' off the line.

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

Motion BZA 2004-48 – 9225 Willson Drive

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

1. A variance from the minimum side yard setback of 50' to 30' for a variance of 20' for the purposes of constructing a detached garage.

Based on the following findings of fact:

1. A practical difficulty exists.
2. The applicant is adding a garage onto his house and there is an existing septic leach field behind the house which extends to a point approximately 58' from the side yard so in order to provide 24' for the width of the garage, it would be impossible to provide that and still avoid the leach field without granting a variance.
3. It is not practical to move the garage any farther back, it is already 28' beyond the house and 250' from the street so there is no other feasible location on the property.
4. The neighboring house is approximately 60 plus feet from the side yard so this additional variance for this structure should not adversely affect that neighboring property.

Mr. Takacs seconded the motion.

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

Application 2004-46 by Daniel M. Fine for property at 9519 Taylor May Road

The applicant is requesting a conditional use permit with area variances for the purpose of establishing a cluster housing development. The property is located in a R-5A District.

The zoning inspector's letter dated October 14, 2004 was read and photos of the site were submitted.

Mr. Daniel Fine, applicant; Mr. Joe Gutoskey, engineer and Mr. Andrew Brickman, real estate services were present to represent this application.

Mr. Brickman testified that they met with the Geauga County Planning Commission to get answers and said the acreage is 104.125 acres, there is 740' on Taylor May Road, the property is south of Taylor May Road and it is in a R-5A zoning district. He said they are asking for 20 detached single family dwellings and the farmhouse will remain and it dates back to the 1800s. He said the entrance to the subdivision will be the extension of Nighthawk Drive and will terminate with a temporary culdesac at the Auburn Township line. He added that the riparian buffers will be preserved and said most of the wooded area will be preserved. He said there will be open space with walking trails and that makes up 25 acres with an additional 27 acres for a total of 52 acres of open space which will be preserved and there could be some minor modifications to the layout of the lots. He referred to receipt of a letter from Frank McIntyre, Zoning Inspector and they have addressed all of the issues which are who will own common space (homeowner's association), detailed road construction per the Geauga County Engineer, and the landscape buffer which they feel is most appropriate to be a natural buffer and the berm would block the view of the historic buildings on Taylor May.

Mr. Takacs asked with 20 houses, how the farmhouse is factored in.

Mr. Brickman said there will be 20 houses plus the farmhouse. He added it is similar to the case with Stoneridge and the greenhouse.

Mr. Takacs said in counting in 27 acres for the farm house in the calculations there will be 20 additional houses plus the farmhouse.

Mr. Brickman replied yes, 21 total.

Mr. Lewis asked if the 27 acres will be part of the common space.

Mr. Brickman said 25 acres will be common space and 27 acres will be used for hybrid agriculture and will not be part of the common space.

Mr. Gutoskey testified that sublots 20 and 21 are part of the subdivision.

The board reviewed the site plan.

Mr. Takacs asked if the farm is part of the common space.

Mr. Gutoskey said no, the code only requires 25% open space.

Mr. Olivier asked if the county directed them to come off of Nighthawk Drive.

Mr. Brickman said they had a couple of meetings and it was their preferred way.

Mr. Gutoskey said the end of Nighthawk was stubbed to be developed some day and right now the culdesac is temporary.

Mr. Olivier asked if the county sees it as an extension to Auburn.

Mr. Gutoskey said yes, they see it as an extension to Quinn Road and Taylor May and added that it is cleared out to Quinn also.

Mr. Lewis asked who owns the property in Auburn.

Mr. Gutoskey said Auburn Glen Corporation owns the land.

Mr. Peter Becker of 9615 Nighthawk Drive testified that he owns the land in Auburn.

Mr. Lewis asked Mr. Becker if it is his intent to tie into the proposed road.

Mr. Becker said he has no intention to tie into anything.

Mr. Brickman said where the proposed road terminates it is owned by Auburn Glen Corporation and contains 225 acres.

Mr. Olivier referred to subplot 20 which has seven acres and asked why they chose not to cluster it with the other 19 lots.

Mr. Brickman said they are still looking at the best way to do it.

Mr. Olivier asked why that lot cannot be put into the cluster and create more open space.

Mr. Brickman said this area is going to be retained by the current property owner and the rest of the lots will be sold off to cover the cost of acquiring the farm and that is the reason he is asking for the area variance.

Mr. Olivier asked if sublots 20 and 21 will be retained by the property owner.

Mr. Brickman replied yes.

Mr. Becker said he bought his five acres and thought that only one house was permitted per five acres and added that he is not happy with this.

Mr. James Reed of 9290 Kingsley Drive asked if there was any intention of bringing the drive out onto Taylor May Road.

Mr. Brickman said no because there is a temporary culdesac from the road on Nighthawk Drive.

Mr. Reed asked if the road from Nighthawk will ever have access from Taylor May Road.

Mr. Brickman said the county suggested using the temporary culdesac.

Mr. Reed testified that there is a curve in front of the farm and if this creates more traffic, he is totally against it coming out onto Taylor May.

Mr. Mike Simpson of 9621 Taylor May Road testified that he is concerned about more accidents on Taylor May Road along that 740'.

Mr. Lamanna said the board can only consider what is before it today and it cannot tell the county not to allow it to tie into it at some point in time and referred to Auburn Township. He said it is a valid concern and there is the thinking that it is always good to have two ways in and that is why they make those provisions.

Mr. Tom Tracy of 9474 Taylor May Road testified that he lives across from the farm and looks at an open field right now and asked what he will be looking at in the future and if he will see any buildings.

Mr. Brickman said he did not think so because it is 2,000' away.

Mr. Tracy said he is concerned about dust etc.

Mr. Brickman said their intent is to preserve the front 52 acres.

Mr. Lamanna said it will be 1,400' away and it is not an easy question to answer.

Mr. Van Gerstenfeld of 18553 Snyder Road testified that the back of his property abuts up to this property and his concern is the water run-off and added that he has a creek and the owner of the property has changed the direction of the water and this all dumps onto Snyder Road. He said there will be more traffic and that section of Snyder Road has never been widened, the speed limit is 45 mph and there will be more problems for everyone.

Mr. Gutoskey referred to the run-off and said they have to get an application from the Geauga Soil & Water Conservation District and they cannot let more water flow leave the property than what is there now.

Mr. Gerstenfeld asked how the water will be directed from the property and if any of the engineers will be going to see the problem on everyone's property.

Mr. Gutoskey said they have to follow the watershed and they are limited to where it drains now.

Mr. Lamanna said the county does look at the drainage issues and explained that concerns known in the process can be addressed and hopefully the developer can improve the situation.

Mr. Jerry Lutkus of 18539 Snyder Road testified that he owns two properties to the north and he moved to Bainbridge Township in a rural area to have peace and quite and asked how this development will not change that.

Mr. Brickman said the existing design maximizes the natural resources there now and 50% will be open space.

Mr. Lamanna explained cluster zoning and referred to an example of 100 acres in a five acre district whereby 20 homes could be built but the same 20 houses could be built on smaller lots that reduces the infrastructure with less roads etc. and it will preserve some large tracts of open space. He said that houses are concentrated together with open space and the trustees found it consistent with five acre development and the number of lots are within plus or minus one and this property could be developed with five acre lots and the arrangement would be different.

Mr. Gerstenfeld asked if the maximum houses will be 21.

Mr. Brickman replied yes.

Ms. Debbie Howald of 9475 Mallard Point testified that she bought in a small development and had no idea there would be a change and asked how you can tack on another development onto another homeowner's association because Edgewater has an entrance it maintains and asked if they can bill the new subdivision for maintenance.

Mr. Lamanna said the streets are public roads.

Ms. Howald said they (Edgewater Reserve) have a homeowner's association and their dues maintain the front area and they have yearly dues for landscaping.

Mr. Brickman said he was sure they could pay and he was not aware of that.

Mr. Lamanna said it is a public thoroughfare and they have a right to drive by the front entrance but it may be in their best interest to help pay because it is a practical matter and added that the board cannot say they have to help pay, but would encourage them to do so.

Mr. Ross Embrescia of 9585 Nighthawk Drive asked how big the lots will be.

Mr. Lamanna said the smallest lot is 2.25 acres and goes up to 3.5 acres.

Mr. Embrescia testified that he moved to Bainbridge Township under the assumption that each lot would be five acres.

Mr. Lamanna said you have to have five acres to build but cluster allows a five acre density.

Mr. Lewis referred to the Peppermill Chase Subdivision.

Mr. Embrescia said he is against this proposed subdivision.

Ms. Pat Lisy of 18677 Snyder Road testified that when Edgewater Reserve was established, the township paid thousands of dollars to have a water study done and originally the developer wanted cluster houses. She said it is a beautiful development with no traffic and their property abuts up to hers. She asked if a water study was done and said she worries about the water table and asked if she can go back to the developer to make good on her well if she has a problem but added that she did not think they would be liable though.

Mr. Lamanna said the board will look into the water study.

Mr. Gutoskey said the county may have had a water study done but he does not know.

Mr. David Tantlinger of 9510 Nighthawk Drive testified that the property in question is zoned R-5A with one house for every five acres.

Mr. Lamanna said it is part of a legally permitted way to develop property in a R-5A District.

Mr. Tantlinger referred to Chapter 117.

Mr. Lamanna said Chapter 117 applies to the conditional use, not the cluster.

Mr. Olivier said Chapter 117.13 is the general criteria for a conditional use.

Mr. Tantlinger asked Mr. Fine if he owns the property.

Mr. Fine replied yes.

Mr. Tantlinger asked what the average cost of the proposed homes will be.

Mr. Brickman said the minimum price will be $\frac{3}{4}$ of a million dollars or higher and comparable.

Mr. Tantlinger asked if the people in Edgewater Reserve Subdivision can be assured that the houses will not be 2,200 sq. ft.

Mr. Brickman said the property in Bainbridge Township is too expensive.

Mr. Tantlinger asked Mr. Brickman if he knew what a house recently sold for on Nighthawk Drive.

Mr. Brickman replied no.

Mr. Tantlinger said the house sold for \$950,000.00 and asked how the developer can say they will be comparable in value when they don't know how much the homes are going for. He continued by saying he built his home on Nighthawk Drive and this group does not know the value of the homes in the neighborhood. He said they moved to a rural area and that is why they are all here tonight and asked again how they can say the homes will be in the \$750,000.00 price range. He said these people are here because their life savings are tied up in their houses and he (developer) wants to destroy the lifestyles of 40 – 50 people so he can pay for his property. He said he drives that road everyday and said yes we (Edgewater Reserve Subdivision residents) will see the development and if this culdesac is already too long now, how will it not have an exit onto Taylor May Road.

Mr. Gutoskey said it was stubbed into Nighthawk Drive.

Mr. Tantlinger said to please tell him where the other entrance is or is this one way in and one way out.

Mr. Brickman said this is per the county.

Mr. Tantlinger asked where the other entrance is and said Nighthawk is too long now to be a culdesac street.

Mr. Gutoskey said it is too long to be a permanent culdesac.

Mr. Tantlinger said that street ends and it is too long to be a culdesac.

Mr. Brickman said it is a temporary culdesac.

Mr. Tantlinger asked how long Nighthawk has been stubbed.

Mr. Thomas Linton of 19105 Snyder Road said it is been that way for nine years.

Mr. Tantlinger said it is already one way in and one way out and the residents all have genuine concerns and said he is not against the development, it is the way it will be developed and it is an opportunity for one way in and one way out for another nine years.

Mr. Andrew Natale of 9390 Rail King Court testified that he has more than 20 years in the construction industry and he is a construction lawyer. He said he lives in the Edgewater Reserve Subdivision and his home cost \$840,000.00 and he has one million dollars in his property and he bought the property based on five acre zoning. He said they are asking for an exception to the development and there are other options. He said he lives on Rail King Court and he will look directly into a portion of this proposed development with seven rooftops and that is not why he moved into this development. He said he is aware of the Hawksmoor Subdivision and Mr. Gutoskey's involvement and he is concerned with water run-off. He said the alternative is to put a road in off of Taylor May and added that the water run-off from that property is unbelievable and there are no underground storm sewers there. He asked who this benefits and said they can get 20 lots on the Taylor May Road side. He said this developer is also involved with the development in Auburn Township and all construction will be run through our development for the next nine years. He continued by saying he paid more than one million dollars for his kids to be safe on the street and our kids need to be protected. He said the only people that will benefit will be the adjacent people in Auburn Township and he urges the board to consider the impact on the aquifer because they are dropping 20 homes with more wells on 30 acres and referred to Laurel Springs and the problem with those wells. He said he urges the board to reject this plan and the developer should find a place to develop with five acres or where they don't need to access Nighthawk Drive to Auburn Township.

Mr. Richard Obradovic of 9320 Kingsley Drive testified that he lives on the corner of Kingsley and Snyder, south of Taylor May, and Snyder Road is the worst road in the township for speed. He said there are three hidden areas and he quit walking on Snyder and the township has to fix Snyder Road first.

Mr. Paul Basel of 9605 Nighthawk Drive testified that he has an investment in his property and they came back here to raise their children because they like the school district and he lives next to Mr. Becker. He said he was sure no one could build off the back of the culdesac and he made sure he built a home that was substantial and it bothers him. He said his son is three years old and we (residents) will have to put up with construction for ten years. He said he is worried about the safety of his son and he is opposed to this project and added that they paid a great deal of money for their houses in this area.

Mr. Frank Simcic of 9540 Taylor May Road asked what the developer will do if they don't get the variance.

Mr. Brickman said the variance and conditional use are two separate things and the other alternative is to develop it into five acre lots.

Mr. Steve Remias of 18481 Snyder Road testified that his property abuts up to Mrs. Pilny's property on the western tier to the south.

Mr. Gutoskey said the property is open space.

Mr. Remias asked how far back it will go.

The board said 1,200'.

Mr. Remias asked if they are going to take out the gas and oil pipe and if it will be removed before building begins.

Mr. Brickman said that is the first time he heard of it.

Mr. Remias said there are two wells on that property.

Mr. Brickman said the developer will address those concerns.

Mr. Matt Ratajczak, property owner on Nighthawk Drive, asked what the specific plan is to control the water run-off from this property.

Mr. Brickman said there is no plan yet but they will be working with Geauga Soil & Water to not allow anymore run-off after construction.

Mr. Gutoskey said the water will be released at a pre-development rate.

Mr. Ratajczak asked why there is no plan submitted at this point for buffering the perimeter and the landscaping.

Mr. Brickman said they are going to leave it in the existing state.

Mr. Ratajczak asked which area.

Mr. Brickman said the entire area and the landscaping is different, what is required is a natural buffer.

Mr. Gutoskey said the water will still flow off the property.

Mr. Ratajczak said this would be much better with five acre lots.

Mr. Brickman said they are contemplating several ideas and added that the county accepted the preliminary sketch.

Ms. Jennifer Ratajczak testified that the proposal could be developed into five acre lots and opened from Taylor May Road.

Mr. Brickman said they are preserving as much open space as possible and with five acre lots it would be different.

Ms. Ratajczak said there would be plenty of open space.

Mr. Brickman said he has a different opinion and this plan is a better use.

Ms. Ratajczak said there are better ways not to benefit one individual financially and you segregated 25 acres which is a nice buffer for Mr. Fine.

Mr. Gutoskey said there is a 100' strip on the eastern property line and it goes back into the open space.

Ms. Ratajczak asked if the Fire Chief has been contacted about this plan.

Mr. Brickman said the Geauga County Planning Commission will address that.

Mr. Gutoskey said the planning commission approved the sketch plan, there will be a preliminary plan and then the final plat because it is taken in steps.

Ms. Ratajczak asked if the Fire Chief has been made aware of this.

Mr. Gutoskey said he is not sure if it has been submitted to the fire department.

Mr. Lamanna said actually the board does have comments from the fire department and they have a concern about water for fire protection and a concern with the potential for a future extension into Auburn. He said they don't want to have to provide service to Auburn Township and they want to make sure there is another exit from Auburn first.

Ms. Ratajczak said the board asked the people tonight not to consider that subdivision in Auburn with relation to this subdivision and the only solution is to extend Nighthawk Drive out to Taylor May Road.

Mr. Lamanna said he has a right to develop it in a way the law permits. He said the cluster regulations and cluster development is not for the benefit of the developer only and explained smaller lots with less roads but the density is the same.

Mr. Ratajczak referred to a letter from the health district regarding some lots that are located in a swale area and added that he is strongly opposed to this.

Mr. Brickman said that is a standard letter and they still have to come out and approve the individual lots.

Mr. Andy Lenart of 18445 Snyder Road asked that with the lots being 2.5 – 3.5 acres and if the zoning changes 20 years from now, can he put in another 20 houses.

Mr. Brickman replied no.

Mr. Lamanna said no, the plan will be approved as platted and cannot be changed in the future.

Mr. Lenart testified that it is going to be like a city out here.

Mr. Lamanna said there will be no more houses than if it was developed with five acre lots.

Mr. Lenart said for right now.

Mr. Lamanna said there will be deed restrictions and they cannot be undone easily.

Ms. Lisa Nowak of 9520 Nighthawk Drive testified that she is opposed for all of the reasons brought up and said she did not grow up in a development but bought into one because of the landscaping requirements, no farm animals are allowed and asked how you can take a road and connect it to a potentially different environment. She added that Peppermill Chase does not connect to anything.

Mr. Lamanna said there is a public street running through the Edgewater Reserve Subdivision but the residents could ask the trustees to give the road back to them and make it private. He explained that the developer could make the subdivision with individual five acre lots and not have to come here and we cannot legally deny him access and we cannot deny someone their legal right. He said the board of appeals is a judicial body and it has to make a decision based on law and facts submitted and the decision has to be based on the law and the facts. He explained that the board has to look at everything that is relevant and it wants the best record so it can make a decision.

Mr. Mike Simpson of 9621 Taylor May Road asked how many acres are going to be for the Alpacas.

Mr. Fine testified there will be 27 acres.

Mr. Simpson said the 27 acres need to be subtracted out.

Mr. Brickman said they are all part of the subdivision.

Mr. Simpson said if 27 acres are being set aside for the Alpaca Farm then it should not be included in the subdivision.

Mr. Lamanna said there is nothing to regulate the size of the lots but there will be deed restrictions to tie all this together and he would not be able to divide it in the future.

Mr. Pete Sugarman of 18395 Snyder Road asked if this property is not suitable for septic systems, what the reality is of sewers.

Mr. Gutoskey said that won't happen.

Mr. Sugarman asked what if this development gets denied.

Mr. Lamanna said they would have to come back and redraw a different plan.

Mr. Mark Howald of 9475 Mallard Point testified that the residents are getting bamboozled and there should only be ten houses. He added that Mr. Fine has found a creative way to keep 50 acres for himself.

Ms. Karen Embrescia of 9585 Nighthawk Drive asked if there are any plans for ballfields, swimming pools, lights, etc.

Mr. Brickman said there will be a conservation easement in place and there will be no lighting.

Ms. Embrescia testified that she is very disappointed with this proposal.

Mr. Embresica said that he seconds that.

Ms. Ratajczak asked if the homeowners in Edgewater Reserve will have access to the walking trails.

Mr. Brickman said they could talk about it but who else would he have to give access to.

Mr. Lamanna said it would make sense for the associations to work together.

Mr. George Gorup of 9410 Rail King Court testified that a lot of his concerns are that everyone is opposed to more traffic on their street and asked if it is documented that the county ever looked at these plans.

Mr. Brickman said they reviewed the preliminary sketch plan and some conditions need to be met to get final approval from Geauga County.

Mr. Gorup said that Mr. Brickman said that Geauga County won't allow you to have a road coming out onto Taylor May Road.

Mr. Brickman said he did not say that, they submitted this plan to the county and that road would be extended to the Auburn Township property line and added that he does not have any control or ownership in the Auburn property.

Mr. Gorup said it was mentioned that there will be green space to block the view of the homes from Taylor May.

Mr. Brickman said it will block the view from the barn etc.

Mr. Gorup asked if there will be green space to hide the new homes.

Mr. Brickman said he does not know if anything will be blocked.

Mr. Gorup said it was said that the view of the homes will be blocked from Taylor May Road.

Mr. Brickman said the homes will be very expensive with deed restrictions.

Mr. Lamanna asked if they knew about the kind of homes that will be built.

Mr. Brickman said the deed restrictions will be like the ones in Edgewater Reserve.

Mr. Howald asked if the homes will be at least 3,000 sq. ft. with no farm animals.

Mr. Brickman said they will review the deed restrictions from Edgewater Reserve.

Mrs. Howald said we (residents) want the variance to be denied.

Mrs. Florence Janosik of 9565 Nighthawk Drive testified that she agrees with everything she heard but the developer did not know about the house values in the area and we have expensive homes and he does not even know the size of the proposed homes and the condition of Snyder Road has to be taken into consideration. She added that she moved to this neighborhood where her kids can ride their bikes and walk the dog, etc.

Mr. James Reed of 9290 Kingsley Drive testified that Mr. Brickman is very ill prepared because no soil tests and no perk tests have been done and he has never heard of variances requested prior to any kind of soil work being done.

Mr. Lamanna explained that because of the way things are, subdivisions are approved by the county and the township controls the zoning. He said the septic is controlled by the health department and the drainage by Geauga Soil and Water and if the board grants approval it grants it contingent upon all other agencies' approvals and the different bodies have different pieces of the project.

Mr. Reed said he agrees with that but has never seen that done before.

Mr. Simcic said he opposes the 21 homes on 104 acres and urges the board to grant only 20.

Mr. Richard Robosky of 9560 Nighthawk Drive testified that homes on five acre lots are generally more expensive than homes on two acres.

Mr. Lamanna referred to Canyon Lakes and said that is a nice argument but the facts belie it.

Ms. Claudia Kresevic of 9740 Kingsley Drive asked why the township went to five acre zoning and were there any cluster developments that were not approved.

Mr. Remias stated that the lot size was regulated more than 20 years ago and referred to state legislature.

Mr. Lenart asked what the dark green areas are on the plan.

Mr. Brickman said they are the riparian setbacks.

Mr. McIntyre explained the riparian setbacks.

Mr. Lamanna said they are setbacks from streams or watercourses.

Mr. Keith Hall of 9595 Nighthawk Drive referred to the Edgewater Reserve Homeowners Association's deed restrictions regarding noise etc. and what they have to abide by and asked what will protect the residents on the street. He read some portions of the deed restrictions.

Mr. Lamanna asked that the association submit their deed restrictions to the board in order to consider them.

Mr. Tantlinger asked if the board ever approved a cluster subdivision attached to another subdivision.

Mr. Lamanna said he cannot remember.

Mr. Tantlinger asked if when considering a variance if they look at how the adjacent neighbors will be affected.

Mr. Lamanna replied yes and said it is a legitimate concern and the board can require the subdivision to put in deed restrictions etc. and there are a lot of things that can be worked out and the board encourages them to do it and added that he understands what these concerns are. He said the board has to have the facts to make a decision so its decision can be defended in court if necessary.

Mr. Tantlinger submitted to the board information about a home that sold across the street from him for \$950,000.00 and said he does not know how the developer can make the representation that the homes will be \$750,000.00.

Mr. Lamanna stated that this kind of meeting becomes a forum to make contacts with the adjacent property owners and talk about some of those issues.

Mr. Brickman said they want to address those things.

Mr. Howald suggested putting the cluster in the middle with the access off of Taylor May Road and it would be a better configuration instead of off of Nighthawk Drive.

Mrs. Howald said it could be done if the homes were reconfigured.

Mr. Fine testified that this farm has been around for 180 years.

Mr. Ratajczak said this is a 180 year old farm that is being destroyed and asked Mr. Fine if he thinks he is creating a harmonious situation with his neighbors.

Mr. Fine said that this is a starting point.

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

Motion BZA 2004-46 - 9519 Taylor May Road

Mr. Lamanna made a motion to table this application to the next regularly scheduled meeting to be held November 18, 2004.

Mr. Takacs seconded the motion.

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

Application 2004-47 by Bainbridge Associates, Ltd. for property at 8564 E. Washington Street

The applicant is requesting area variances for the purpose of additional parking. The property is located in a CB District.

The zoning inspector's letter dated October 14, 2004 was read and photos of the site were submitted.

Mr. Cliff Hershman was present to represent this application.

Mr. Hershman testified by saying that the trees died and one fell over. He said he really appreciates the board working with him and thanked the board and said he really created something nice and the restaurant is in. He said his tenants are complaining about not enough parking and the jewelry shop and dress shop are opening up and he would like 15 more parking spaces and he will plant more trees. He said he could really use the parking and said there is already tension among the tenants and he has 11,000 sq. ft. to go and on some nights and on Saturdays there are no parking spots left. He said if he can get this done before winter, he will replant new trees.

The board discussed the site plan and screening.

Mr. Hershman said he can install some bushes.

Mr. Lewis asked how big a parking space is.

Mr. McIntyre said they are 180 sq. ft.

Mr. Hershman said they had the right amount of parking spaces and were going to put in 11 spaces but realized they would block the drainage so he could only put in seven and moved four more in a different area, so four spaces are on the other separate parcel.

The board discussed the application.

Mr. Hershman said he really needs the parking.

Mr. Lewis said he lost four spaces so he can add twelve.

The board reviewed the calculations regarding the proposed parking spaces.

Mr. McIntyre said the lot coverage is at 59.65% right now.

Mr. Hershman said if the board wants to give him 15 spaces that would be fine.

The board discussed the lot coverage.

The public hearing was recessed at 12:07 A.M. and reconvened at 12:15 A.M. so information could be obtained from the zoning office regarding this application.

The board discussed the application further.

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

Motion BZA 2004-47 – 8564 E. Washington Street

Mr. Lamanna made a motion to grant the applicant's request for the following variances:

1. An additional variance to create sixteen parking spaces in the northwest corner of the property with adjustment of a loss of four parking spaces from the previous approval of March 18, 2004.
2. A variance to increase the lot coverage by 1.01% to 60.66%.

With the following conditions:

1. As a part of this project, the applicant will also plant some mature pine trees along the western property line up to approximately the front of the CVS and will plant three to five foot tall bushes along the remaining area of the grass strip in front of the parking on the west side in order to reduce the impact on the adjacent property owner.

Based on the following findings of fact:

1. Due to the tenant mix, the applicant needs some additional parking spaces to avoid congestion in the parking lot.
2. It is a small increase in the overall lot coverage.

Mr. Takacs seconded the motion.

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

Since there was no further testimony, the public hearing was closed at 12:17 A.M.

Respectfully submitted,

Michael Lamanna, Chairman
Todd Lewis, Vice Chairman
Mark Olivier
Ellen Stanton
Donald Takacs

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

Date: November 18, 2004

Bainbridge Township, Ohio
Board of Zoning Appeals
October 21, 2004

The regular meeting of the Bainbridge Township Board of Zoning Appeals was called to order at 12:17 A.M. by Mr. Michael Lamanna, Chairman. Members present were: Mr. Todd Lewis, Mr. Mark Olivier and Mr. Donald Takacs. Mrs. Ellen Stanton was absent.

Minutes

Mr. Lamanna made a motion to adopt the minutes of the September 16, 2004 meeting as written.

Mr. Takacs seconded the motion.

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

Other Business

The board met with Mr. Frank McIntyre, Zoning Inspector regarding one of Habitat for Humanity's proposed homes in Chagrin Falls Park and was in agreement to allow the house to be centered on the lot.

Applications for next meeting

Application 2004-46 by Daniel M. Fine for property at 9519 Taylor May Road - Continuance

The applicant is requesting a conditional use permit with area variances for the purpose of establishing a cluster housing development. The property is located in a R-5A District.

Application 2004-49 by David Petrie for property at 8814 Apple Hill Road

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

Application 2004-50 by George H. Richards for property at 17144 Park Drive

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

Application 2004-51 by Farmington Woods Estates, LLC (Rep. John Scimone) for Richard P. and Dorothy Rogel for property at 16533 Chillicothe Road

The applicant is requesting area variances for the purpose of constructing a second single family dwelling. The property is located in a R-5A District.

Since there was no further business, the meeting was adjourned at 12:45 A.M.

Respectfully submitted,

Michael Lamanna, Chairman
Todd Lewis, Vice Chairman
Mark Olivier
Ellen Stanton
Donald Takacs

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

Date: November 18, 2004