

Bainbridge Township, Ohio
Board of Zoning Appeals
October 28, 2010

Pursuant to notice by publication and certified mail, the public hearing was called to order at 7:07 P.M. by Mr. Michael Lamanna, Chairman. Members present were Mr. Christopher Horn, Mr. Todd Lewis, Mr. Mark Murphy and Mr. Mark Olivier.

Mr. Lamanna welcomed everyone to the regular meeting of the Bainbridge Township Board of Zoning Appeals. He then explained the hearing process and swore in all persons who intended to testify.

Application 2010-19 by Ruth C. Jackson for property at 8372 Chagrin Road -
Continuance

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

The zoning inspector's letter dated September 16, 2010 was read.

Ms. Ruth Jackson testified that she had various people come out and look at it and it was determined that there is no way it could be moved anywhere. She said to go into the backyard, it cannot go through a gate or over the fence and it can't go the other way because there is not enough room between her house and the lot line to move it much less get it around to the backyard. She said the two towing places that she spoke with said that in order to winch it up onto a flatbed trailer it will break in half so therefore she is applying for a variance.

Mr. Lewis asked Ms. Jackson if she has any documentation with her of the opinions that the two contractors offered her.

Ms. Jackson said no she didn't know she needed it but one was H & H Towing in Solon and the other one was Bainbridge Towing. She said her neighbor's concern with it when all of the bushes died was that she didn't like looking at the white, white wall so she asked if it could be painted brown so she is willing to comply with that and have it painted brown and she can pick out the shade even, it is fine and in the meantime the bushes that have died have grown back and if she needs to plant more to make a screen she will do that also.

Mr. Lamanna asked if there is anybody else who is interested in this application.

Ms. Jackson said just her neighbors.

Ms. Joyce Southerland testified that it is fine with her but she is not the neighbor who complained.

Mr. Lewis asked Ms. Southerland where her house is located relative to Ms. Jackson's house.

Ms. Southerland said there is a house between, his (Mr. Conrad) house actually, he is right next door and she is one over.

Mr. Rudy Conrad testified that his house is to the north of her property.

Mr. Lewis said on the other side of the property.

Ms. Southerland said they are both on the north side and actually that property never looked so good in all the years she has lived there which is 34 years.

Mr. Lewis said the board appreciates that but at this particular point we are just dealing with two structures that are not compliant but we are always appreciative when somebody wants to maintain and upkeep their property, that is great.

The board reviewed the application and photos submitted.

Mr. Murphy asked Ms. Jackson if there was any reason why she called a car towing company to get an appraisal for moving sheds as opposed to house movers or anything like that and did she think also in moving these sheds that she would not have to take a fence down and put it back up. He said he doesn't understand what she said regarding she can't move it because the towing company can't move it and the fence is in the way.

Ms. Jackson said she is sorry but the fence posts are cemented in the ground and the gate is only 35" wide so there is no way to go through a gate or over it and the reason she called them is because her first thought was since she is on Social Security which is \$804 a month she could not in any way afford a house mover per say because they probably start at a couple thousand so she was thinking of a big flatbed tow truck that has that winch on it that pulls demolished cars up on it so she thought maybe that was an avenue but because of the length of this building, they would have to wiggle it around and when they tried to pull it up on the truck, when it gets to a certain height it would break in half and even with that the price was prohibitive.

Mr. Lewis said he was thinking sled rails and medium size equipment and a bucket and pull it over there but he wouldn't make any attempt to lift it.

Ms. Jackson said all of those years it was fine but when the bushes died, her neighbor all of a sudden decided that she didn't like looking at this white structure which she can paint.

Mr. Lewis said sooner or later, just in the normal course of regular business, somebody would have observed or the zoning inspector would have observed and there was a compliance issue that needs to be addressed. He said this first building is really tricky because it is real close to the lot line and it is sitting in front of the house so we have a double violation there.

Ms. Jackson said the one you are speaking of is 8' from the lot line and then the way the lot line goes it becomes almost 12'.

Mr. Lewis said he understands but the side yard setbacks are 50'.

Ms. Jackson said the house isn't 50'.

Mr. Lewis said they deal with that as well and there are provisions in the zoning code that says it can sit within the shoulders of the house so if the house is 40' off the property line, the structure can sit 40' off sitting within the shoulders of the house.

Ms. Jackson asked if the fact that it is not a permanent structure, does that mean anything.

Mr. Lewis said yes, it means that it is moveable.

Mr. Lamanna said the fact that it is not on a foundation, it is a structure whether it is on a foundation or not on a foundation, it doesn't matter as far as the zoning goes because otherwise people would be building all kinds of things and then claiming they are not permanent but anything that is physically present there that looks like a building whether it is actually on a real foundation or on a sled foundation does matter.

Mr. Olivier asked if the structure could be disassembled and reassembled, there are neighbors here supporting it and it doesn't look like it would be that difficult to disassemble.

Mr. Murphy said he doesn't think the woodshed is the problem, you are not talking about picking up the little shed in front, you are talking about moving the back shed.

Ms. Jackson said we are talking about the woodshed.

Mr. Murphy asked Ms. Jackson if she got a price to move the back shed, the big shed.

Ms. Jackson said no.

Mr. Murphy said that is the one that is totally wrong, both of those sheds are wrong.

Ms. Jackson said the one in the back is at least 12' from the lot line and it is on the driveway.

Mr. Murphy said right, you built on top of a concrete driveway so it could be dragged, pull the fence up and move it to the back. He said both of those are in violation of the Bainbridge Township Zoning.

Ms. Jackson asked isn't that why she is applying for a variance.

Mr. Murphy said it is but did nobody say that you have to get a building permit and a zoning permit when you start to build something.

Ms. Jackson said the company that she bought it from came out and erected it and she asked them and they said she didn't need anything because it is not on a concrete base.

Mr. Murphy asked Ms. Jackson if she still has their number.

Ms. Jackson said yes but it has been ten years.

Mr. Murphy said they can probably still move it for her. He told Ms. Jackson that she went and built two buildings right next to the neighbor's line totally in violation of Bainbridge zoning and he does not know how to make it any easier or softer than that but everything about those two buildings are wrong, not just the woodshed but the first building, it is right smack on the property line.

Ms. Jackson said no, it is 12' away and the line is not correct.

Mr. Murphy said 12' is still right smack on the property line and he knows what Ms. Jackson is saying, with older properties, etc.

Ms. Jackson said you are going to say that ignorance is not whatever but she did not know these things and when they told her there was no problem because it was not cemented down or whatever that makes a difference and with the log house she had her firewood stacked up with a tarp over it and of course when it gets windy and the tarp would be blowing and looking messy and then the weight of it and the way the property goes down to her neighbors, some of the firewood went down and she came over and told her she had to do something about that because the firewood is falling down, so she took those two pieces and she and her son moved all of the firewood and was going to build a better foundation so that it wouldn't do that but instead of looking at the ugly tarp, looking at a nice little building would be so much better and because her garage opens towards her property, both the buildings, especially the first one with the flower boxes, it keeps the view totally obstructed and when she is working in the garage and refinishing furniture in the driveway, if she is having a yard sale, the neighbor doesn't have to look at it because it is totally blocked off. She said she has a very good looking building, unfortunately it is only 12'- 15' from the lot line.

Mr. Murphy said and it is good looking from your side of the building and we have had this discussion already, we have talked about this.

Ms. Jackson said please.

Mr. Lamanna said he is not sure he can see any way on that front building and at least the one building is a bit more attractive than the other one and it looks like a regular house type building.

Ms. Jackson said she could put windows on the back side and paint it like she (her neighbor) requested, plant 47 Christmas trees, whatever the board wants her to do but she cannot do the expense of moving these and she needs them, she just can't burn them up or something.

Mr. Horn asked Ms. Jackson if she is requesting a variance because they are already built and she wants them to remain there.

Ms. Jackson said yes.

Mr. Horn told Ms. Jackson if she had come before the board to request a variance before they were built, there are other locations on the property where they could have been placed and they would have been in compliance.

Ms. Jackson said she was not aware.

Mr. Horn told Ms. Jackson if she had come in and talked to the zoning inspector and he said they have to be 50' off the lot line, she could have found a place in her backyard where she could have put those buildings and asked if that is correct.

Ms. Jackson said yes but it still wouldn't have been 50'.

Mr. Lewis said the board has already looked at the topography and has already established that the septic and well are in the front yard.

Ms. Jackson said correct.

Mr. Lewis told Ms. Jackson if she wanted a structure in her backyard bad enough it might mean that she might have to compromise some trees so there are buildable locations compliant in the backyard, you just chose not to take trees down and put them there and he thinks that is the point Mr. Horn was making, had you been in front of the board before, the suggestion is there is no way in the world these would have been approved. The board would have said you want it, take some trees down, the land is buildable in the backyard, now it is your call.

Ms. Jackson said in order to be 50' from the lot line it would be practically in the middle of the yard.

Mr. Olivier said the board gets that quite a bit where people don't want to put them in the middle of their yard but that is what the zoning requires.

Mr. Lamanna said you can put it as far over as your house is.

Mr. Lewis said if it was 40' you could have put it 40' over.

Mr. Lamanna said the board would have allowed 30' under certain circumstances depending on what the specifics were but we are now in an untenable position and told Ms. Jackson because she is asking for something which if she came in here beforehand, it would be clear cut but this is not even a close call, there is very little question that they would have said no and to put them somewhere else.

Ms. Jackson asked if the board would rather have ugly wood there with a tarp on it if that would have been acceptable.

Mr. Lamanna said you can't say rather than to have the ugly wood there, it is okay to build a structure there.

Mr. Horn told Ms. Jackson from a personal perspective she tried to improve and the board sympathizes with that but we have a zoning ordinance we have to follow and we have to look at your case as we are sitting here tonight as well as the ones that are going to come in front of us for the next ten years and in your situation perhaps if we do grant the variance and other people put up structures and come and say well it is here so you should give us a variance and then it kind of impacts substantially in a negative sense our zoning ordinance so that is the issue we have to wrestle with in terms with what our obligations are.

Ms. Jackson said she understands that now but she didn't know that before so here again, please.

Mr. Lewis said he has an opinion that might be reasonable, practical and not ultra expensive and he also offers a remedy to the neighbor. He said there are two structures and just for the record he does not believe they should be there, they should both be moved and whether that is practical today or not. He said the larger of the two structures appears to be pretty cumbersome to move and maybe expensive, there are 12 feet on the side yard, possibly we are talking about serious all weather screening, pine trees so you won't see the side, a more dense planting up to the gutter, with the stuff coming down, we are not dealing with bushes, we are not dealing with shrubs, we are screening this and that is his thought on that one and maybe we should offer some consideration because of its current placement but the little one has got to go.

Ms. Jackson said even though it is 15' off.

Mr. Lewis said it can be put in the backyard and added that one is bad and two is really bad.

Mr. Lamanna said the other one is even closer and in the front and far more unsightly from its construction standpoint. He said the one has a normal pitched roof and it looks like a little house, the other one looks like an inexpensive shed that should be in a backyard to store wood or tools in it.

Mr. Murphy said according to Mr. Wrench it is not 12' off the property line it is 5'.

Mr. Wrench said that is going off the GIS.

Mr. Horn said that doesn't look too good for a justification for granting the variance.

Mr. Lewis said he was speaking with his heart and not the code and that is why he didn't make the motion, he just put it out there and he prefaces this by saying they both have got to go.

Mr. Horn said maybe the board can give them time to have them removed.

Mr. Lewis said he agreed.

Mr. Lamanna said there are better opportunities for people to do this kind of work now.

Mr. Murphy said there are people that could handle that job and may not just have a car towing business that are not house movers either that could probably move both structures and speaking from a construction standpoint it is not a giant project to grab those things and drag them. He said the fence is a temporary impediment and it could be put back.

Mr. Lamanna said it is difficult for the board because it is so close, if it was more within a discretionary call, maybe the board could give some latitude but this is so clear cut that it wouldn't have been permitted in the first place. He said the board sympathizes with the situation but there is not a sound legal basis to do anything.

Ms. Jackson said her neighbor had the property surveyed last fall because she was going to put in a snow fence and changed her mind and put up a split rail fence.

Mr. Lewis asked who "she" is.

Ms. Jackson said it is her neighbor but she doesn't know her name because she doesn't socialize but when the property line was surveyed for the fence and they put up little flags all the way into the woods, going by that and the way it angles where the log house is it is approximately 8' and then it angles off to 12'.

Mr. Lewis asked Mr. Wrench to measure the distance from the main house to the lot line per the GIS.

Mr. Wrench said it is 30'.

Mr. Lewis said he is inclined to offer a variance to get them moved to be 30' so it parallels the shoulders of the house.

The board discussed the setback from the house to the property line.

Mr. Lewis said he does not want it coming past the edge of the house and as Mr. Horn suggested, be generous with the amount of time just to make it more financially feasible for Ms. Jackson so the board is not pushing her to do something in two weeks.

Ms. Jackson said she appreciates that.

Mr. Lewis told Ms. Jackson to talk to the zoning and building departments and maybe someone could be recommended to move the buildings.

Mr. Lamanna said the Amish can be pretty creative moving a small structure like this.

Mr. Lewis said the only basis there is for a variance is that it would be consistent coming off 50' to the side of the house.

The board discussed a time-frame for having the structures moved.

Mr. Murphy said it might be better if the ground was frozen.

Mr. Lamanna said that is correct it might be easier to move it with the ground frozen.

Mr. Jeffrey Jackson asked if there is any chance of getting a variance for the larger building if the smaller one is moved because the larger building is about 20' long.

Mr. Lewis said the board determined that there was no basis that the board could offer that variance, that was a comment that he made and the fact that it is on the driveway, it is not into below frost line footers so it is movable and there are people who do this for a living.

Mr. Jackson said between their house and their next door neighbor's house there is not 16' to get through there.

Mr. Murphy asked about next to the garage.

Mr. Jackson said there is a fence that is permanently concreted in the ground, there are vinyl fence posts that are concreted in the ground.

Mr. Murphy said he has a feeling that the fence will have to be rebuilt unless the shed can be picked up and moved around to the other end.

Mr. Jackson said that is what he is saying, there is no room.

Mr. Murphy said he is really sorry that there is a fence there and a structure and whoever built the structure lied to Ms. Jackson so she may want to call him to see if he will move it for her.

Mr. Murphy continued by saying that would be his first call and what he did was wrong. He added that you can take a fence down and put it back in but the shed is in the wrong place to begin with.

Mr. Jackson said they realize that.

Mr. Murphy said it could be taken apart a piece at a time and there are a million options for moving the shed.

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

Motion BZA – 2010-19 – 8372 Chagrin Road

Mr. Lamanna made the following motions:

1. A motion to deny the applicant's request for a variance to maintain the existing structures in their current location.
2. A motion to grant the applicant a variance to the side yard setback from the required 50' to approximately 30' being equal to the existing side yard setback of that same side of the primary dwelling for the purposes of relocating the structures to the backyard.
3. The board will allow the applicant until June 1, 2011 to complete the removal and/or relocation of those sheds to an area within compliance with the setback in the second variance.

Based on the following findings of fact:

1. The reason for denying the applicant's first request for a variance is that no practical difficulty has been demonstrated.
2. These sheds are located no more than 12' from the property line which would require a substantial variance.
3. They essentially adversely affect the neighbor's property.
4. They are inconsistent with other sheds in the area.
5. One of the sheds is actually located in the front yard of the structure and there is no reason given the topography of the property that these sheds could not have been originally located in the backyard.
6. The reason for granting the side yard setback is the existing house is at approximately 30' and placing the sheds that distance from the side lot line would not have an adverse impact on the neighboring properties.
7. It would be consistent with the neighborhood and consistent with the intent of the zoning with respect to these types of situations.

Mr. Horn seconded the motion.

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

Application 2010-23 by Robert W. and Cynthia J. Goldberg for property at 8623 Apple Hill Road

The applicants are 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 28, 2010 was read.

Ms. Cynthia Goldberg was present to represent this application.

Ms. Goldberg testified by thanking the board for making themselves available to hear their plan. She said they have been in their house for 33 years, and have been thinking of needing a shed and where to place it for 33 years and said as someone once said if not now, when so they spoke to the folks of Alpine structures at the fair and they found a structure that they very much liked. She said they spoke to the Pilgrim Village Architectural Review Board and she spoke with four of their neighbors who might have any way of seeing the shed that would be placed in the back and they were very agreeable. She said they showed them their plan book and they sent their request to the architectural review committee of Pilgrim Village and they did ask them to reduce the size of the shed from 12' x 24' (their dream) to 12' x 20' which they agreed to. She said their goal is to place it on a concrete pad with footers mindful of the fact they are on Apple Hill Road, it will be a very pleasantly pleasing structure and will stay on their property so they are working on a concrete pad with footers. She said she brought their signed approval from the architectural review board and then wish to request a shed placed 20' from the west property line if possible, 50' from the south property line and this would represent a 30' variance for the west property line and a 40' variance from the south property line. She said their goal is to produce an aesthetically pleasing acceptable plan that is acceptable to zoning and that meets all of the requirements including stability on the property and their neighbors were very supportive of their plan. She said she copied off of the website and has lots of documents and she doesn't know if they are redundant.

Mr. Murphy asked Ms. Goldberg if she has a site plan that shows the location of the new structure.

Ms. Goldberg said it is a site plan she has prepared with the best of her ability and added that she worked the website with the tools they had.

Mr. Olivier asked if she thinks the property is not correct on the GIS.

Ms. Goldberg said she hopes the property line is not correct and she did call Chardon because it appears that their property line went through their neighbor's shed.

Mr. Lamanna said those property lines are only approximate.

Ms. Goldberg said she felt sure that she is not the owner of the shed and they affirmed that she should not be unduly worried. She said she proposes a safe and sturdy shed.

Mr. Lamanna asked if she had a location survey for her house from the bank when she purchased her home.

Ms. Goldberg said she had as much as she knew how to print off.

Mr. Lamanna asked her if she knows what her lot dimensions are.

Ms. Goldberg said yes and she used the tool on the website and it appears her property is 308' deep and 149' wide and by record it is 1.03 acres.

Mr. Lamanna said it is probably 150' wide.

Mr. Lewis asked Ms. Goldberg if she has a septic system.

Ms. Goldberg said no they are connected to the sewer system and she does have a well.

Mr. Lewis asked where her well is located.

Ms. Goldberg said in the back up by the house.

Mr. Lamanna asked how far back the house sits.

Mr. Wrench said 100' from the road.

Mr. Lamanna said there is 160' – 180' behind the house.

Mr. Horn asked Ms. Goldberg why she needs a variance.

Ms. Goldberg said if they did 50' from the side and 90' from the south they would be obstructing a naturally existing swale which they did not create, it was present at the time they purchased their property 33 years ago and their concern is if they block the swale they will force water which flows with some force down Apple Hill in the direction of their neighbors away from their home.

Mr. Lamanna asked which way the swale runs.

Ms. Goldberg said the swale the board is concerned about is running south from the north to the south from the east to the west.

Mr. Lamanna said it is following the contours and if you look at the map you can see the contour lines. He asked if it is following one of those white lines that direction.

The board discussed the contour lines on the property.

Mr. Murphy asked if there is a bigger ditch behind her property and if it flows right to left.

Ms. Goldberg said yes and she has never seen that ditch, it is not on her property but she understands it fills when it rains but she has never seen it.

Mr. Lewis asked if the swale is going through the wooded portion.

Ms. Goldberg said the swale goes behind there yes.

The board asked her to point out the swale on the GIS photo.

Ms. Goldberg said it appears to run this way and you can see the change in the elevation so it is higher here and explained how the water moves through the property.

Mr. Murphy said the problem is that the Bainbridge Township zoning specifically says that they don't like the idea of people putting sheds right over on the property line and they would like you to tuck it behind the house and you seem to want to squeeze it over there on the left property line.

Mr. Lamanna said it looks like it is getting right down to the area where the swale is.

Ms. Goldberg said she has an alternate possibility which still fulfills the obligation to not go up against the property line and she is clearly mindful of that whole issue but the alternate would be here (she referred to the GIS map). She said the alternative would be finding a way to work within the shoulder of her driveway and would be well away and would be a protective barrier visually and as much as there is concern about catching water, no one wants to catch water with a building, water is not forgiving, it will win ultimately so if we move the structure here (she referred to the GIS map) off of the natural swale and have it face west it will be on the higher point of the lot, visually it will have a minimal impact and hopefully again the goal is to avoid catching the water and not have the shed wash away as well but also to meet more of the obligation of the zoning and added the shed is 12' x 20'.

Mr. Olivier asked Ms. Goldberg if she would like more time to determine if that location is feasible.

Ms. Goldberg said no because that was plan B.

Mr. Murphy asked if plan B is in line with the driveway or is it actually behind the shoulder of the house.

Ms. Goldberg said here (she referred to the GIS map).

Mr. Lewis said if we can work with the shoulder of the house and we have a swale in the middle of the yard that may act as a practical difficulty to allow the board to relax the rear setback requirement if she is going to put it in the woods. He said if it is going to go up into the green space, in the top left of the triangle in the backyard it sits behind the house and easily satisfies the 90' rear yard setback. He asked if there is about 180' from the back of the house to the rear.

Mr. Horn asked to see the house on Beacon Hill that is behind her house.

Ms. Goldberg said Beacon Hill is behind her lot.

Mr. Lewis said if it stays in the shoulders of the house and maybe concede to 50' in the rear because of the proximity to the neighbor.

Mr. Horn said she may want to go back and rethink this and walk her backyard and see if this works before the board grants something.

Ms. Goldberg said with respect to the board she has been walking this property for 33 years.

Mr. Lamanna asked her when she wants to start construction.

Ms. Goldberg said she is hoping someone will still come out and one of the things she has had working with the contractors is they tell her when she goes to zoning they will talk to her when she really has something to do so this is why she is happy to work with the board this evening.

The board discussed the lot lines according to the GIS map.

Ms. Goldberg said it shows the neighbor's shed to be in her yard and she would like the board to give her a good sense of where to place it.

The board discussed the proposed placement of the shed.

Mr. Murphy told Ms. Goldberg that she has a deep backyard and as long as the shed is behind the house.

Mr. Lamanna said unless the house is more than 50' off and if the house is less than 50' from the sideline, the shed can be put behind it.

Ms. Goldberg said there is no danger of putting it all the way in the back because in 30 years they have not gone in the back.

The board explained the proper location for the shed.

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

Motion BZA – 2010-23 – 8623 Apple Hill Road

Mr. Lamanna made a motion to grant the applicant the following variances for the purpose of constructing a 12' x 20' shed.

1. A variance from the minimum required rear yard setback of 90' to 50' for a variance of 40'.
2. A variance from the side yard setback to the existing side yard setback of the principal dwelling structure, whatever that might be.
3. The shed may be located no closer than the sidelines than the existing structure is unless that structure is more than 50' from the side property line.

Based on the following findings of fact:

1. A practical difficulty exists because this is only a one acre lot.
2. There is a large swale for drainage that runs through the lot which limits the location of this shed.
3. Granting this variance will not have any adverse effect on the neighboring properties or be inconsistent with the existing development in this neighborhood.

Mr. Lewis seconded the motion.

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

Application 2010-22 by Parkside Church for property at 7100 Pettibone Road

The applicant is requesting a modification of a previously approved conditional use permit (BZA 2009-32) for the purpose of constructing an addition. The property is located in a R-5A District.

The zoning inspector's letter dated October 28, 2010 was read.

Mr. Dale Markowitz, Attorney for the applicant, Mr. Michael Bowerman, Director of Facilities for the Church, Mr. Anthony Paskevich, Project Architect and Mr. Jason Kekic, Project Engineer were present to represent this application.

Mr. Markowitz testified that he is representing Parkside Church and he has been here on behalf of Parkside Church last year and this year and in January of this year the board gave the church a conditional use approval for an expansion to the church to build a new sanctuary in the back and a new children's wing underneath the sanctuary. He referred to a site plan and said the facility has been changed in one significant way and that is this is now going to be a two-story above ground and a one-story below ground. He said the children's wing was configured in a different way under the sanctuary and as a result of looking at pick-up and drop-off, location of where the children would be, cost and digging into the ground, they decided to instead of going below ground for the children's wing to create it above ground. He said the board will see that it will have no impact at all when driving either on Root Road or Pettibone, they are not going to see it and he figured out that if you are on the south side green from the golf course it is the only place you might see the children's wing because it is going to be blocked from the rear by the sanctuary and it will be blocked from the front from the existing sanctuary and the existing structure that is there now on Root Road, you won't be able to see it. He said they took some of the basement space and retained it and kept some of the space in the basement for storage and mechanical use but all of the children's wing is now an attached building and there is going to be a covered walkway from the sanctuary and there will be a drop off point for the children so that they have their own, not freestanding, but their own building so to speak and he will go through the floor plans. He said in 1990 Parkside Church got approval for a conditional use permit and built the existing facility, at least part of it, and they added on a little further back and they have that big community area now in the back and in 2010 in January the board approved a conditional use permit to expand for the new sanctuary, an approximately 2500 seat facility. He said they did a significant amount of study and engineering and worked on storm water management and they worked on the stream restoration issue and none of those things are changing and their lot coverage which they got approval to go to 40% from this board, they are still lower than 40% because two things are happening. He said they are building the children's wing above ground but it is being built in an area that is primarily hard surface already and secondly they created a greater efficiency using the parking area so that they have more green space in the parking area and they actually have more parking spots than they had on their approved plan in January because when this came about they thought they should add a little more parking and they made sure they stayed under their 40% lot coverage. He referred to a site plan regarding the proposed stream restoration and said there is a small pond and a large pond and that area is all going to be restored to a stream that originally existed before somebody built those ponds and that is going to give them another 3% or so of green space so when they are done they will actually have 36% lot coverage rather than 39%. He said Mr. Jason Kekic is here, the project engineer, and he will explain all of that to the board. He said the question they had last time was how are they doing with traffic management and they contacted Mr. Mike Schweickart at TMS who did the last study and they did a very large report for them and they had testimony on that last year and he came back and said the amount of new area that is being added is basically mechanical, storage, hallways and there is no real change in the usable area that would impact traffic and his opinion, the traffic plan they put in place in January would not need to be changed and that is part of the package they have for the board tonight.

Mr. Markowitz continued by saying he is going to turn this over to Mr. Mike Bowerman who is going to talk about the project and then they will have Mr. Jason Kekic and Mr. Tony Paskevich. He said all of it won't take that long, it is really not that complex of a change they are making but they thought they should lay it all out for the board and added that they have a larger version of the copy that was given to the board.

Mr. Michael Bowerman testified that he is sorry they are back and taking up the board's time and whenever you do planning on projects like this you would like to hit it right the first time and the more they looked at, the more it occurred to them that it was a great improvement to the project for their own use in a number of different ways. He said if they were to not excavate the full basement of the sanctuary under a sloped floor with noise, isolation and sound, the more they studied that the more expensive that became to them and realized that it could be a lot of economies by not digging and not having to support underneath of a worship center sanctuary and so they began doing studies and their children's department was very pleased to bring the kids out from under the basement and to give them an above ground facility and there were actually economies and the investment with that regard. He said also it allowed them to improve their drop-off and parking and they actually gained parking by further studying.

Mr. Lamanna said the footprint itself of the sanctuary will remain the same.

Mr. Bowerman said the footprint has not changed, that is correct.

Mr. Markowitz showed the board the existing drawings and the new drawings.

Mr. Murphy said the footprint changed.

Mr. Markowitz said for the wing.

Mr. Murphy said the original site plan of January 2010 compared to the new site plan other than its parking lot compared to the building, we have got a substantial building there that wasn't in the January 2010 site plan.

Mr. Bowerman said correct, it is a 14,000 sq. ft. addition.

Mr. Lamanna said the sanctuary part itself has not moved, that is the same footprint and it looks to him like that part has not changed, they are adding a new building to the left side of that.

Mr. Bowerman said it was previously parking lot and it is now a 14,000 sq. ft. two-story building.

Mr. Lamanna asked if the 14,000 sq. ft. is per floor.

Mr. Bowerman said yes it is 45,000 sq. ft. gross.

Mr. Markowitz referred everyone to the addendum page.

Mr. Lamanna said he is glad that was clarified because he read that page and he wanted to make sure his conclusion was correct.

Mr. Markowitz said that was in their application and they are adding 13,000 sq. ft. of net when they are done.

Mr. Lamanna said after reducing the space you are giving up in the lower level in terms of actual space, that is going to be used for programmatic purposes as opposed to non-programmatic purposes, and asked how does it compare. He said the classrooms and other things will be close to what you had before.

Mr. Bowerman said yes and added this entire footprint is about 15,000 sq. ft. and they are taking the center part out, this will be excavated and they are moving it over to here (he referred to a site plan).

Mr. Lamanna said so it will be the same amount of program space.

Mr. Bowerman said yes.

Mr. Lamanna said you will have some additional storage.

Mr. Bowerman said yes, in the front and the back.

Mr. Lamanna said it is non-functional space not used for the church functions.

Mr. Lewis asked if the elevation is okay.

Mr. Markowitz said the elevation was given a variance for the sanctuary in January and the new structure is approximately 33' and 35' is allowed.

Mr. Lewis thanked Mr. Markowitz.

Mr. Bowerman said primarily this was going to be an improvement for us and after further study it provides an improvement for the entire site they think.

Mr. Olivier asked if new parking will be added or are they taking some away and adding it to the rear.

Mr. Bowerman said in comparison between the two at the rear side they were able to improve the drop-off and circulation drive and pick up some spaces back here (he referred to a site plan) that they didn't have before and that is where they were as a part of the massaging of the plan able to reroute the circulation and pick up additional spaces so they are very pleased, this is an improvement not only about bringing the kids above grade but also with the circulation as they were able to study it.

Mr. Lamanna said and there was going to be some unpaved areas into the existing lot.

Mr. Bowerman said yes.

Mr. Lamanna said when you look at this at least from a couple directions you aren't going to be able to see anything different because it is pretty much behind and will be visible only really from the west and slightly from the north but primarily from the west.

Mr. Horn said from Grantwood Golf Course.

Mr. Bowerman said you can't see it even from the county line where the VFW is because there is a tree cover along the railroad tracks there.

Mr. Lamanna said it is really tucked into the existing building and if we see something different looking forward but there is still something in the back that is the same size we are really not adding from a visual standpoint.

Mr. Markowitz said if you look at the bottom slide you see that there is an existing structure there now but east of it that blocks anybody seeing from the east and the existing sanctuary blocks it from the south.

Mr. Lamanna said if the new wing wasn't there you still wouldn't see anything different, there is no incremental obstruction of the landscape, the area he is looking at stays the same, he just sees a different building structure in part of it on the one side and the other three sides it will really be no different at all.

Mr. Bowerman said they have their civil engineer/site engineer here if the board would like Mr. Kekic to speak to the site constraints and Mr. Tony Paskevich, their architect is here to talk about the architecture if the board would like those issues addressed.

Mr. Markowitz said the one thing he was going to add was they have a letter from the Fire Department that they got today and of all the things Asst. Chief Lovell mentioned as you remember about the sprinklers, the alarm system and the amplifier, they don't expect to change that.

Mr. Lamanna said from that standpoint it is probably better to have these people in a two-story building above ground instead of under the ground and if you have to get people out it will be a lot easier to get them out from here than it was before so it is improving the access.

Mr. Markowitz said they are going to put a walkway toward the sanctuary so there will be two accesses. He said they would be happy to answer questions on lot coverage, calculations, parking etc.

Mr. Lamanna asked Mr. Wrench if the lot coverage is okay.

Mr. Wrench said yes it is improving.

Mr. Horn asked if The Chapel, Inc. is the same as Parkside Church.

Mr. Markowitz said that was the original corporate name, The Chapel Inc., and it was amended to change it to Parkside Church but the original deed was The Chapel, Inc.

Mr. Murphy asked if this will include something similar to daycare, will there be an outside playground that is part of this.

Mr. Bowerman said no, they don't have a day school, this is only for use on Sundays or Saturdays or special events.

Mr. Murphy asked if there will be a landscaped interior such as grass etc. for the inside windows.

Mr. Bowerman replied yes.

Mr. Lamanna said there is one other thing he wanted to address on a separate issue and that is the last time Parkside Church was here the subject about Root Road and the access came up.

Mr. Markowitz said the board took action on that and they found it going through the minutes. He said the board approved the employees during the week to use the Root Road drive on June 17, 2010 and it was under old business.

Mr. Lamanna said he does not know if the board actually officially acted on it.

Mr. Markowitz said he has no objection to it if the board wants to make a motion tonight it would be okay with him.

Mr. Lamanna said the board discussed the issue but will take care of it tonight and basically this is so if the employees have a reason to go that way during the week that will cover it.

Mr. Bowerman said they also own properties on Root Road so we have people running up and down the street.

Mr. Murphy said the sign now says right turn only on Sundays or is it something like that.

Mr. Lamanna said there is also a gate.

Mr. Bowerman said they also have a gate that they keep closed on Sundays.

Mr. Lamanna said but the rest of the week you want to keep it open.

Mr. Bowerman said yes.

Mr. Murphy said the gate to get to that road is closed on Sundays.

Mr. Bowerman said yes because it was their sense that the board was discouraging them exiting toward that direction.

Mr. Lamanna said this was a question that a resident raised about whether the gate was required to be kept closed all of the time.

Mr. Murphy said the idea was that on Sunday, close it to try to keep the traffic from going out.

Mr. Lamanna said if it is closed on Sunday or if there is some other major event during the week where you expect a Sunday type crowd or special event with a lot of people there, the gate would be closed up and the rest of the time it could be left open so the employees can use that as an ingress and egress to get to the church property on Root or Jackson Road.

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

Motion BZA 2010-22 – 7100 Pettibone Road (Parkside Church)

Mr. Lamanna made a motion for the following:

1. To modify the Conditional Use Permit for the applicant from the previous modification approved in Case 2009-32 to reflect a modification to the building structure by moving classrooms to a new above grade building wing as well as modifications to the parking to relocate parking spots and to add unpaved green areas to some of the existing parking. The lot coverage will remain less than the 40% permissible.
2. To modify some previous provisions of the conditional use permit with respect to the driveway onto Root Road and its use. The applicant will maintain a gate at that property which will be kept closed on Sundays or any other events where there will be large scale use of the parking lot on a similar type of attendance as you might have on a Sunday but during the rest of the week that driveway may be used by the employees of Parkside Church especially to access the other properties owned along Root Road by the church.

Based on the following findings of fact:

1. The reason for granting this modification is it is not significantly different from the previous case 2009-32.
2. All of the provisions and other conditions in that approval will remain in effect.
3. Essentially the same amount of functionally usable space will be obtained.
4. There will be actually some improvements to traffic circulation and lot coverage.
5. There will be no adverse effect as far as the profile and view of the facility as it is seen from the surrounding neighborhood.

Mr. Lewis seconded the motion.

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

Since there was no further testimony, the public hearing was closed at 8:35 P.M.

Respectfully submitted,

Christopher Horn
Michael Lamanna, Chairman
Todd Lewis, Vice Chairman
Mark Murphy
Mark Olivier

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

Date: November 18, 2010

AUDIO RECORDING ON FILE

BZA PH 10/28/2010

-22-

Bainbridge Township, Ohio
Board of Zoning Appeals
October 28, 2010

The regular meeting of the Bainbridge Township Board of Zoning Appeals was called to order at 8:35 P.M. by Mr. Michael Lamanna, Chairman. Members present were Mr. Christopher Horn, Mr. Todd Lewis, Mr. Mark Murphy and Mr. Mark Olivier.

Minutes

Mr. Lamanna made a motion to adopt the minutes of the September 16, 2010 meeting as written.

Mr. Lewis seconded the motion.

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

Applications for November 18, 2010

Application 2010-24 by Michael A. Bonner, Architect for Michelle Berkes, Trustee for property at 17360 Lookout Drive

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

Application 2010-25 by Bainbridge Shopping Center II, LLC for property at 7145 Market Place Drive

The applicant is requesting area variance(s) for the purpose of allowing the shopping center to re-subdivide the parcel for tax purposes only. The property is located in a CR District.

The Bainbridge Township Board of Zoning Appeals set a public hearing on the above applications for November 18, 2010 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 8:55 P.M.

Respectfully submitted,

Christopher Horn
Michael Lamanna, Chairman
Todd Lewis, Vice Chairman
Mark Murphy
Mark Olivier

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

Date: November 18, 2010