

Bainbridge Township, Ohio  
Board of Zoning Appeals  
March 20, 2003

Pursuant to notice by publication and certified mail, a public hearing was called to order at 7:42 P.M. by Mr. Michael Lamanna, Chairman. Members present were Mr. Todd Lewis, Mr. Mark Olivier, Mrs. Ellen Stanton and Mr. Donald Takacs. The following matters were then heard:

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

Application 2003-10 by Lawrence S. Forsythe for property at 8284 Washington Street

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

The zoning inspector's letter dated March 12, 2003 was read and photos of the site were submitted.

Mr. Larry Forsythe was present to represent this application.

Mr. Forsythe testified that he lost his lease across the street at his former location on W. Park Circle Drive and this space was available. He said he works on the police cruisers and township vehicles, it is a small business and works basically on automobiles.

Mr. Lamanna asked Mr. Forsythe how long he has been at this location.

Mr. Forsythe said he has been there not quite three months but was not set up to do any operations until this past month, he was just moving things over from the other location. He said that Knowles wanted a five year lease on a short notice and this came up as a hap-hazard move.

Mr. Takacs said there was a sign up in January at the new location.

Mr. Forsythe said there was no sign there.

Mr. Takacs said there are a lot of cars at the new location and this is the same problem that was at the location across the street and also at the location next to the Original Mattress Factory.

Mr. Forsythe said that was Avalon Automotive and it was not totally all of his stuff.

Mr. Lamanna asked what was previously in this space.

Mr. Forsythe said there was a small business there, they waxed cars and did tune-ups, then it was a gymnastic area until he moved in.

Mr. Olivier asked if there will be exterior changes.

Mr. Forsythe said he would like to put a sign up.

Mrs. Stanton referred to the site plan and asked if he will be using the gravel area in the back.

Mr. Forsythe said he is not planning on using it except to park a truck back there and explained that he has a tow truck and a snow plow.

Mrs. Stanton referred to the parking spaces on the site plan and asked for an explanation of the parking area.

Mr. Forsythe said he could park trucks back there.

Mrs. Stanton said there were trucks parked almost literally along the road yesterday.

Mr. Forsythe said he had a car waiting for a new engine but it was not parked on the road, it was near the road.

Mr. Frank McIntyre, zoning inspector, testified that the site plan is the original plan from back in the 1980s.

Mr. Takacs said in January there were a lot of cars.

Mr. Forsythe said he had to move everything over quickly.

The board viewed the site plan and photos of the site.

Mr. Lewis asked how the building is accessed.

Mr. Joe Orłowski, assistant zoning inspector, testified that the entrance is off of Wren Road.

Mr. Lamanna asked if there is no access to the rear of the building.

Mr. Forsythe said there is an access at the side of the building on Wren Road and he will put the cars at the back of the parking lot next to the woods.

Mr. Lewis said that cars are being stacked from the curb in and referred to the two dumpsters. He also asked if the only hard surface area was gravel.

Mr. Forsythe explained the gravel area in back of the lot.

The board discussed the dumpsters per the photo and the location of the parking area and the location of the cars almost on the berm and right-of-way area.

Mr. Lewis said there is no provision on the side of the building for parking and asked Mr. Forsythe to show which parking spaces are his.

Mr. Forsythe explained the parking spaces per the site plan.

Mr. Lewis said that parking needs to be designated.

Mr. Forsythe said he works by himself and it is not that big of a business.

Mr. Takacs said there were a lot of cars at the other two locations and this location looked bad in January plus there was a sign up.

Mr. Forsythe said there was never a sign up and the sign there is for the gymnasium.

Mr. Lamanna asked if an improvement can be made in the back to park cars.

Mr. Forsythe said he could add some gravel.

Mr. Lewis asked if the landlord is present.

Mr. Thomas Vokas, landlord, said that he was present.

The board discussed the existing parking spaces.

Mr. Takacs referred to the board of zoning appeals meeting minutes dated January 19, 1995 and March 20, 1997 regarding Mr. Forsythe's other businesses which stated that there will be no outside storage and cars left outside were not to exceed 30 days.

Mr. Forsythe said there are just cars outside, never any oil.

Mr. Lamanna asked what the rule is regarding entrances.

Mr. McIntyre explained the regulations regarding pre-existing versus new construction and said obviously this is not new construction and today you have to have setbacks.

Mr. Lamanna said the way this was built, it is not very attractive and the cars should not be parking there and they are practically in the street and there should be some landscaping in here so there is not a continuous 100' curb cut.

The board viewed the photos again.

Mr. Lewis said that per the site plan there is probably five legitimate parking spaces and since the track record is numerous cars, the remedy is to finish the parking lot to take the cars off the road and off the right-of-way, so there will be someplace to put the cars.

Mr. Tom Vokas, property owner, testified that the parking area was expanded when the Fairmount Fine Arts Center was there because they grew in popularity, so a little gravel was put out there but they were not parking on it. He said he extended the gravel area down Wren Road another 30' and around the rear of the building because he allowed the construction company, when they did Washington Street, to dump their gravel. He said he was going to expand  $\frac{3}{4}$  of the way down to the condos because he does have a little room for expansion but put the plans on hold.

Mr. Olivier asked if the rear is wooded.

Mr. Vokas replied yes and said there is a five foot band of gravel.

Mr. Lamanna asked if there is parking in the right-of-way.

Mr. Vokas said the concrete has been there since the 1970s but they were not parking cars on it.

Mr. Lamanna said there should be some kind of setback from the right-of-way.

Mr. Vokas said you don't want cars in the right-of-way.

Mr. Lamanna said that is right and there should be an entrance on each side and the gravel area should be planted with shrubs.

Mr. Vokas said he parks his vehicles for his operation there also.

Mr. Lamanna said this is not an ideal situation.

Mr. Vokas asked if it is OK to park cars in the back.

Mr. Lamanna replied yes and said you need to make a definite entrance so it is not a 150' free-for-all going back and forth from the street.

Mr. Olivier suggested installing parking lot barriers or concrete strips.

Mr. Vokas said he understands the board's concern but his trucks have always been parked up against the building.

Mr. Lamanna said yellow hatch marks could be put on the curb so ingress and egress is controlled so cars won't be parked there and if a car is in disrepair, it will be parked behind the building.

Mr. Takacs said the whole thing should be cleaned up and added that it can be seen from Timberfire also.

The board discussed adding a curb there.

Mrs. Stanton asked if there are plans for signage.

Mr. Forsythe said he has no plans right now for signage and the size of the sign depends on the size of the building.

Mr. Vokas said when his father built this building in 1973 it was only the second or third building on the street before the Western Reserve style buildings started to be built and added that he has been there for 17 years. He said he thinks they have been good neighbors and we had to sit at their meetings when the condos were built and we also met with Larry Dolan when he wanted to buy the back of the property to provide egress and ingress for his movie theater but we declined on that because we did not want movie traffic coming out onto Wren Road. He said it is all wooded back there too and he understands that the township wants to keep the area neat and he will work on it and added that it cost him \$4,000.00 to pave the lot for the Fairmount Fine Arts Center and they moved out on him.

Ms. Susan Sanislo of 16575 Wren Road testified that she lives on Wren Road and it is a mess back there and all of the sudden she saw the cars there so she called Mr. McIntyre.

Mr. Lamanna asked where the vehicles were parked.

Ms. Sanislo said they were almost up to the right-of-way and they are junkers and it looks like he uses them for parts. She said the Fairmount people came and left and added that the area was all cleaned up when the photos were taken. She said the only place they don't park is by the door and it will lower the value of her condo and he should only take on as many cars as he can get out in a week or so.

Mr. Lamanna asked if only mechanical work was done.

Mr. Forsythe said no body work is done.

Mr. Lamanna said there should be no cars for salvage.

Mr. Forsythe said the only vehicles there now are a Thunderbird and a tow truck.

Mr. Lamanna asked what a reasonable number of cars should be there at one time.

Mr. Forsythe said he can only handle two cars per day and the average would be around six.

Mr. Lamanna said there cannot be cars there to be salvaged and the board wants all the parking behind the building.

Mr. Forsythe said that is workable.

Mr. Takacs asked Mr. Forsythe if he had three service vehicles.

Mr. Forsythe said he has two snowplows because one is a backup and added that he puts as many cars inside as he can.

Mr. Takacs asked how many cars are in the building.

Mr. Forsythe said four.

Mr. Takacs asked what is done with the oil and batteries.

Mr. Forsythe said the oil and batteries are picked up by a company.

Mr. Takacs asked how many gallons of oil are on site.

Mr. Forsythe said the container only holds 150 gallons and it is only  $\frac{1}{2}$  or  $\frac{3}{4}$  full and he keeps the new oil in cases.

Mr. Takacs asked what provisions are made for fire protection.

Mr. Forsythe said he has oil dry and four fire extinguishers.

Mr. Takacs asked if the fire department has done an inspection yet.

Mr. Forsythe said no, not yet.

Ms. Muriel Meckler of 16585 Wren Road testified by saying she objects to the variance request regarding the 3,000' distance between auto repairs because we don't want two on the street and we don't think we need two repair shops so close.

Mr. Forsythe said it is not like we are adding a shop, we simply moved. He said he had to get a variance when he was across the street also.

Mr. Lamanna said it was an industrial district though.

Mr. Forsythe asked if this wasn't a business well before the condos went in.

Mr. Lamanna said that is part of the reason for the 3,000' distance between facilities so the township does not have several of these in a row and now we have two side by side with a residential district behind them. He added that the township has a 3,000' requirement but these are about 100' apart, so this is a very big variance.

Mr. Vokas asked why there are so many banks in the area.

Mr. Lamanna said there is no restriction on the number of banks.

Mr. Takacs named Colonial Auto, Highway Garage, Hecker and now this one and added that Mr. Forsythe's record at the former two places was not very good.

Mr. Forsythe said he took care of it as soon as the weather improved.

Mr. Vokas said that Mr. Forsythe is scaling back.

Mr. Lamanna said that Highway Garage has done an extreme amount of work regarding landscaping and keeping the cars inside and has gone to a lot of trouble to ameliorate any problems and added that this is a big variance.

Mr. Forsythe said he has taken care of the problem, it is gone.

Mr. Takacs told Mr. Forsythe that he moved in before coming to this board.

Mr. Forsythe said he had to move quickly and we had the worst winter in years.

Ms. Meckler asked what kind of lease Mr. Forsythe has.

Mr. Vokas said the lease was month to month.

Ms. Meckler said that is bad because if she took a car there and it takes a month to fix, he could be gone.

Mr. Vokas said Mr. Forsythe does work on some of his vehicles.

Ms. Sanislo said up until now, it has been kept very good.

Mr. Vokas said he could cut all the trees down and added that he was approached by the motorcycle dealer, so some of the options could be worse.

Mr. Lamanna asked the residents from the condos if they can see this facility from their residences.

Ms. Sanislo said no, but they can see it going in and out.

Mr. Lamanna said that maybe they could ask the trustees to plant some trees down the right-of-way of Wren Road to distract the eye away from the businesses because it is not a pretty street going in and the problem is with the right-of-way being gobbled up by pavement.

Mr. Vokas said there is grass along side the property one-half the way down and we had more grass until the county took part of the corner to make it safer.

Mrs. Stanton asked if this is a one-person operation with no other employees working there.

Mr. Forsythe replied yes and said he promises to move the car that is there out of the way.

The board discussed the addition of fencing and the location of the dumpsters.

Mr. Vokas said that one is a recycling dumpster and added that he has looked through the trash and there is quite a few people from the condos that have used it.

Mr. Lamanna said the board is trying to prevent vehicles from being parked near the road and wants to make sure that no one uses the right-of-way. He explained the 3,000' distance (variance request) and if the board can ameliorate the impact on the adjacent property owner and said it won't be noticed if maintained correctly. He told the residents from the condos that there is a quantitative difference between what can be seen from their homes versus driving by into their homes and the board is trying to strike a fair balance between their interest and the property owner's interest.

Ms. Meckler asked why rules are made and then broken every other day.

Mr. Lamanna said the applicant has a right to request a variance but if the issue can be ameliorated that is better and referred to Highway Garage.

Ms. Meckler said the township has so much of the same kinds of businesses.

Mr. Lamanna said that no one can control the number of same businesses in the township and referred to the number of banks etc. because that is an economic decision people make.

Mr. Olivier asked if the board is considering screening on the side of the building.

Mr. Lamanna said a fence could be installed the length of the parking spaces.

Mr. Vokas said it would have to go behind the dumpsters.



Mr. Lamanna said the board wants to make sure there is no parking between the back of those spaces and would like the owner to control the ingress and egress to define the parking area so the right-of-way cannot be crossed and only one entrance and exit will be used.

The board discussed the parking arrangement.

Mrs. Stanton asked if the business can be limited so it does not grow.

Mr. Olivier asked Mr. Forsythe if he has to store all of his personal vehicles there.

Mr. Forsythe said it is convenience and he does do work for the police department and on township vehicles.

Mr. Takacs asked how often the waste is hauled out.

Mr. Forsythe said the batteries are taken immediately and when he gets 20 tires, a guy will come out and haul them away. He said he has paper work on all that stuff and the oil is removed when the tank is at least ½ full or 100 gallons, every three or four months.

Mr. Takacs asked Mr. Forsythe if he stores many parts.

Mr. Forsythe said no because it is dead money. He explained as a car comes in, he orders parts that day and said his biggest inventory is air filters and 6 cases of oil. He said the scrap guy takes the exhaust systems.

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

#### Motion BZA 2003-10 – 8284 Washington Street

Mr. Lamanna made a motion to grant a conditional use permit with the following variances:

1. A variance from the required side yard setback of 100' to 23' for a variance of 77' and a variance from the required side yard setback of 100' to 45' for a variance of 55' on the basis that this is an existing building and it has been here for a substantial period of time.
2. A variance of 2,940' with respect to a service station being within 3,000' of a similar use.

With the following conditions with respect to the conditional uses:

1. The existing conditions for a conditional use, both the special and general ones for auto repair shops, other than the ones dealing with distance from the property line, are required to be followed.

Motion BZA 2003-10 – 8284 Washington Street - Continued

2. Any waste products such as oil, tires, batteries and parts will not be stored outside and will be properly disposed of in compliance with all applicable laws.
3. There will be no outside storage of vehicles under repair for more than a time period reasonable for such repair not to exceed in any event 30 days.
4. The maximum number of cars stored outside for repair will be eight cars and these will be only cars that are legitimately there for repair. No cars will be there for purposes of salvage.
5. All of these cars that are to be held for repair will be parked in parking spaces that head in to the back of the building and the applicant will make suitable provisions for access to those parking spaces. All of these cars will have current registrations in effect for them. With respect to the parking spaces, those parking spaces will be screened from the street by a fence extending the depth of the parking space and the fence will be located behind the existing placement of the dumpsters.
6. With respect to general access and parking to this facility, the applicant will demark and provide hard surface paving from the road right-of-way to the existing paving to define egress points into the property. The applicant will also place either a curb or parking blocks so that cars cannot enter and exit from other locations directly to the street and also to provide that no cars can be parked or access that part of the property paving that is actually in the right-of-way line of Wren Road. With respect to the asphalt parking area, to the rear of the building, that area will be lined or otherwise marked so that there will be no parking permitted any closer to Wren Road than the existing spaces along the side of the building, the point of those spaces which is closest to Wren Road, so there will no permanent parking anywhere along Wren Road closer than the back of the spaces according to the submitted drawing numbered 1 – 15.
7. The time period for completing the installation of the fencing and parking in the rear shall be 60 days from the date of when the minutes are adopted by the board.
8. The time period for completing the curbing installation shall be 120 days from the date of when the minutes are adopted by the board.

Note: The board notes that the applicant will discontinue use of the road right-of-way area immediately.

Based on the following findings of fact:

1. The conditions that have been provided will ameliorate any adverse visual effects from this business and therefore will offset the concerns which this restriction is primarily designed to control.

Motion BZA 2003-10 – 8284 Washington Street - Continued

2. The property owner is adjoined in this application and agreed to be bound by these conditions.

Mr. Lewis seconded the motion.

Vote: Mr. Lamanna, aye; Mr. Lewis, aye; Mr. Olivier, aye; Mrs. Stanton, aye; Mr. Takacs, nay.

Application 2003-11 by Stephen Ciciretto for property at 17109 Eastview Drive

The applicant is requesting an area variance for the purpose of constructing a residential addition. The property is located in a R-3A District.

The zoning inspector's letter dated March 12, 2003 was read and photos of the site were submitted.

Mr. Stephen Ciciretto was present to represent this application.

Mr. Ciciretto testified that this is actually his house and he wants to add a single stall on the back of his current garage to make it a three car garage. He submitted photos and said he has trees for a buffer. He continued by saying that on houses built prior to 1978 they were permitted to cover 20% with structures and in the late 1980s and early 1990s the zoning inspector determined that these lots (Lake Lucerne) were pre-existing, non-conforming lots and he never had to request a variance to build his house in the first place. He described the courtyard area and said under the current zoning the lot coverage cannot exceed 10% so Mr. McIntyre said that a lot coverage variance is needed. He said the total building covers 15% and stated that there are other instances in Lake Lucerne that exceed this lot coverage. He said the house does not leave the standards of the entire neighborhood and the addition is within the footprint of the original home. He said there is a treed buffer and Mr. Kostelnik is here to testify that he does not have a problem.

Mr. Lamanna asked what is in the courtyard.

Mr. Ciciretto said it is a garden area.

Mr. Takacs asked how close the house is to the property line.

Mr. Ciciretto said it was built under the old zoning and is 10' from the property line. He added that he came up with the same calculations as Mr. McIntyre and this was submitted to the Lake Lucerne architectural review board and they did not have a problem.

Mr. Olivier asked Mr. Ciciretto if he can access the garage from the driveway.

Mr. Ciciretto said yes and added that right now the car stays out all the time.

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

Motion BZA 2003-11 – 17109 Eastview Drive

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

1. A variance from the maximum 10% to 24.7% from and existing lot coverage of 23.7% for a variance of 14.5% which is a 1% increase in lot coverage.

Based on the following findings of fact:

1. This is a half acre lot in a three acre area and it is also in Lake Lucerne where there is a much higher density of development.
2. This is a small increase that will not significantly change the character of the property.
3. The addition is located within the setback footprint of the existing dwelling and is consistent with the adjacent properties and will not cause any adverse impact on those properties.

Mr. Takacs seconded the motion.

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

Application 2003-12 by Bainbridge Associates, Ltd. for property at 8564 E. Washington Street

The applicant is requesting an area variance for the purpose of establishing parking for a proposed shopping center. The property is located in a CB District.

The zoning inspector's letter dated March 12, 2003 was read and photos of the site were submitted.

Mr. Cliff Hershman and Mr. Tim Olland were present to represent this application.

Mr. Hershman testified that he modified the parking that was talked about.

Mr. Olland testified that they pushed the row over and the variance is to modify that.

Mr. McIntyre explained the parking, loop and increase in lot coverage.

Mr. Lewis said the whole objective is to put the parking in front of the retailer.

Mr. Takacs said it is in regards to retail South C on E. Washington Street.

Mr. Hershman said he needs to come back to talk about modifying the parking lot at the other shopping area.

Mr. Takacs questioned why the island that was supposed to be included, per the previous motion, item #9, was not showing on the site plan.

Mr. Olland modified the site plan to include the previous mentioned island.

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

Motion BZA 2003-12 – 8564 E. Washington Street

Mr. Lamanna made a motion to modify a previously approved conditional use permit to provide for an access loop and revised parking in front of Retail C which loop will be a 30' distance from the right-of-way area and that additional road surface and additional parking will also increase by 1.5% as far as surface area so the previously granted conditional use will have also been modified to increase that coverage by 1.5%.

Based on the following findings of fact:

1. Except for what has been modified, all of the provisions of the conditional use remain in effect.
2. The specific items and parking and access road will be as shown on the application that has been submitted for this modification.

Mr. Takacs seconded the motion.

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

Since there was no further testimony the public hearing was closed at 9:26 P.M.

Respectfully submitted,

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

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

Date: April 17, 2003

Bainbridge Township, Ohio  
Board of Zoning Appeals  
March 20, 2003

The regular meeting of the Bainbridge Township Board of Zoning Appeals was called to order at 9:26 P.M. by Mr. Michael Lamanna, Chairman. Members present were Mr. Todd Lewis, Mr. Mark Olivier, Mrs. Ellen Stanton and Mr. Donald Takacs.

Minutes

Mr. Takacs made a motion to adopt the minutes of the February 20, 2003 meeting as written.

Mr. Lewis seconded the motion.

Vote: Mr. Lamanna, aye; Mr. Lewis, aye; Mr. Olivier, abstain; Mrs. Stanton, aye; Mr. Takacs, aye.

The Winbury Group

The board acknowledged a letter from Mr. Mark E. Snider of the Winbury Group, dated March 20, 2003, terminating their application, BZA 2003-7 for a conditional use permit for a place of worship on their property located on Service Road C and Bainbridge Road.

Chagrin Road Neighborhood Association Petition

The board acknowledged receiving signature sheets which are part of the Petition to the Zoning Board of Appeals, Bainbridge Township, Ohio, transmitted to the board on March 6, 2003 by the Chagrin Road Neighborhood Association regarding the proposed Judson Retirement Community application for a Conditional Use Permit with Variances.

Judson Retirement Community – BZA 2003-9

The board acknowledged a letter from Mr. T. David Mitchell, Attorney for Mr. and Mrs. Richard Reiersen in connection with the above referenced application, requesting that BZA 2003-9 be continued at a later date and not held on April 17, 2003 due to Kenston Schools being on vacation and it being Passover/Easter week. The board was in agreement to not postpone the Judson appeal and to hold the hearing on April 17, 2003 as scheduled.

Applications for next meeting

Application 2003-9 by Judson Retirement Community for property between Franklin Street, Rocker Avenue and Chagrin Road in Bainbridge Township - Continuance

The applicant is requesting a conditional use permit with variances for the purpose of developing a residential care facility. The property is located in a R-3A District.

Application 2003-13 by Gutoskey & Associates, Inc. (Matt Bryant) for Kathleen Vilics for property at 18145 Haskins Road

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

Application 2003-14 by Bainbridge Associates for property at 16735 Chillicothe Road

The applicant is requesting an area variance for the purpose of modifying an existing parking lot at Market Square Shopping Center. The property is located in a CB District.

The Bainbridge Township Board of Zoning Appeals set the public hearing on the above applications for April 17, 2003 at 7:30 P.M. at the Bainbridge Community Hall, 17826 Chillicothe Road, Bainbridge Township, Ohio and unanimously resolved to request the Board of Trustees to issue a purchase order for legal advertising.

Since there was no further business, the meeting was adjourned at 9:55 P.M.

Respectfully submitted,

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

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

Date: April 17, 2003



