

Bainbridge Township, Ohio
Board of Zoning Appeals
March 6, 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 2003-9 by Judson Retirement Community for property between Franklin Street, Rocker Avenue and Chagrin Road in Bainbridge Township

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.

The zoning inspector's letter dated February 28, 2003 was read and photos of the site were submitted.

Mr. Lamanna explained the hearing procedure and stated that the board of zoning appeals previously considered an application for Judson Retirement Community at another location.

Mr. Anthony Coyne, Attorney for the applicant introduced Ms. Cynthia Dunn, President of Judson Retirement Community and said that Ms. Dunn will present the plans for the facility. He thanked the board and also introduced Bill Fehrenback of the Pattie Group, Landscape Architects, Mr. Bruce Rinker, Attorney and Mr. Jim Herman of Herman Gibans Fodor, Inc., Architects that will also represent Judson and this application.

Ms. Dunn testified that Judson Retirement Community is a quality progression with integrated services and operates two communities at University Circle with 450 residents and offers independent living and residential care facilities and over the years has been approached by many to have something more pastoral and rural in character and their studies show that the preferred place is in the Chagrin Valley area. She said that people have moved out here themselves and prefer that kind of community. She continued by saying that Phase I will consist of 156 units (apartments for individuals), 30 garden homes and 30 assisted living units, and a health and wellness center and Phase II which will be in four to five years, will have 144 additional units with a total of 300 units for 400 individuals. She said 45% will be couples and 55% will be singles and the assisted living will be a one on one ratio. She said that people want walking trails and they want to bring their pets and stay functionally independent. She said the residents will not own the units, they will use them throughout their lifetime and the fees will include utilities, maintenance and housing. She said there will be no nursing on campus, skilled nursing is only at the Bruehning Health Center but these people will have a contractual commitment for the health center if they need it.

Mr. Fehrenback, President of the Pattie Group testified that he was asked to help Judson with various elements on the site and described the location, per the site plan, of the wellness center, assisted living units, independent apartments, the garden homes, the proposed roadway through to Chagrin Road, and said the Metroparks trail runs through this site and in order to get the main campus building on the site, the trail, instead of being in a straight line, could wind around and take advantage of the view with the potential of a pond on the west side. He showed a rendering of the view of the Metroparks trail that will turn and go back to Rocker Street with a slight amount of mounding and pockets of vegetation with a park like appeal. He presented a concept sketch of the view from Franklin Street with a meadow view with natural surroundings and said by virtue of the grades and the topography, the one story windows will be obscured from view. He said they will plant shade trees for a park-like view for walkers as an option, and the area along the eastern side to augment the natural woods and they will add plantings for screening and it was suggested that a drive be installed through to Chagrin Road. He said they don't own the property but it would be for emergency vehicles and this does not hinge on that access point at all. He said there will be only a small amount of surface parking because it will be under most of the buildings (underground parking) except for the visitors.

Mr. Coyne testified that the technical procedures were complied with when the application was submitted under Chapter 135.06 of the zoning resolution except the only variance request has to do with the height of the buildings and they are asking for 44' from 35' or three stories, which will not affect all the buildings on site, for more aesthetically pleasing buildings and also they will be more compliant with ADA regulations. He said they will be within the 20% lot coverage and this is a preliminary plan and the only issues will be based on the board's resolution. He continued by saying that this facility will bring economics to Bainbridge and said the report with the previous file is consistent and upon build-out the results will be 1 million to 1.4 million dollars in taxes on an annual basis which will be split between the school system, township, county and library. He said they previously had a traffic study done by Traff-Pro and referred to a letter by Mr. Michael W. Schweickart that states that the engineer's study showed that "the proposed development had no traffic impact that required any mitigation to improve roadway conditions in order to accommodate site traffic. This was due to the low volumes that will be generated by the proposed development." He continued by saying that the main entrance will be off of Franklin Street with a secondary road to access Rocker Avenue to Chagrin Road and said according to township officials the access road would be in the best interest for both parties because it would give access to Chagrin Falls Park residents. He said Judson is here for preliminary approval and they hope the board finds it is consistent with the zoning regulations.

Mr. Lamanna said he would like to address the two variances and asked if the applicant looked into the height variance requirements with the fire department.

Mr. Coyne said that it is only for one building, the independent living apartments and to their knowledge this will not pose a problem.

Mr. Lamanna said that the board has a letter from the Bainbridge Township Fire Department and they have addressed a need to have hard surfaces provided near the buildings to accommodate their new ladder truck.

Mr. Coyne said it is probably for weight reasons and there is not a problem with that.

Mr. Lamanna said the other thing the fire department has indicated is that they would strongly object to this development unless there is a connection to Chagrin Road because of the greater density of people, etc.

Mr. Coyne said they (Judson) have an option to buy a six acre parcel of property to accommodate that connection.

Mr. Lamanna said the fire department has to have the ability to get the truck in to service the higher building. He said the second issue is the requirement that these facilities not abut a LIR development because of potential health issues.

Mr. Coyne said the code requires it to be adjacent to a commercial business and we did not see that it would adversely affect the use and it is not an issue.

Mr. Lamanna asked how far away the nearest actual use is in the LIR District.

Mr. Coyne scaled it off of the site plan and said the distance to the nearest use is 450'.

Mr. Lamanna said he would like to see a bigger map along the LIR property line to the north and asked if aerial photos are available.

Mr. Frank McIntyre, zoning inspector, explained to the board the location of the LIR property per the site plan.

Mr. Lamanna said it may not be a great concern because maybe there is enough separation.

Mr. Coyne asked if the rear portion of the LIR is developable.

Mr. Fehrenback indicated that there is an extreme slope there.

Mr. Lamanna asked with regards to the Metroparks trail and the rerouting of it, how it will be handled, and will it be a deeded title or easement?

Mr. Coyne said it is a complicated transaction and it would be provided through an easement and will be 10' – 12' wide in order to be ADA compliant and we (Judson) will make the improvements. He said it is now a 50' abandoned railway, not connected to the system and not ADA compliant. He said there have been plans for the trail for sometime but we would still own the property.

Mr. Lamanna asked how far the trail will be improved.

Mr. Coyne said it will be from Rocker to the north edge of the property line but they do not have a formal agreement yet.

Mr. Lamanna said it would make sense if the access could be used for people to walk to the village.

Mrs. Stanton asked if there has been any environmental testing of the property since it is next to LIR.

Mr. Coyne replied not yet and said he is not aware of an environmental concern.

Mrs. Stanton asked if soil samples have been taken.

Mr. Coyne replied no.

Mr. Todd Lewis referred to the Ernst & Young Tax Revenue Analysis page and said he would like to take a walk through it. He submitted an information packet to the board.

Mr. Coyne said that they have estimated that in the year 2006 the gross real estate tax revenues generated should be between \$410,000 and \$430,000 annually and in the tax year 2013 the taxes should be between \$545,000 and \$575,000 and it will also be the primary residence for folks so there will be substantial estate taxes. He said based on 160 units, the estimated estate taxes will be \$600,000 to \$900,000. He said some people talk about the elimination of the Federal estate taxes but this is Ohio and that would not affect that stream of revenue.

Mr. Lewis said he is curious how Judson came up with these tax revenues and said he has been doing some homework. He stated that the Cleveland property that Judson owns is all tax exempt, they have homes for the aged and are considered a charitable institution and there does not appear to be any revenue off these parcels. He continued by saying that he is aware there is a tax exempt application pending with the State of Ohio and asked if the tax exemption exists for one of their properties or if partial or full exemption is in play based on their existing business model with their other two properties and their intent for full tax exemption on the other properties.

Ms. Dunn testified that retirement communities that are financed with hospital exempt financing can be a non-profit organization but the independent living units would be taxed. She said anything they would do from this point forward, the independent apartments and garden homes would not be tax exempt.

Mr. Lewis asked Ms. Dunn if it is her intent to file a tax exemption for this property.

Ms. Dunn said yes she will pursue a tax exemption on the wellness center.

Mr. Lewis asked if those taxes were sliced off already from the tax information provided.

Ms. Dunn replied yes.

Mr. Lewis said the proposed tax revenue element is of a lot of interest.

Mr. Lamanna said when the board approved the Montefiore project, one of the conditions was payment in lieu of taxes to the township because it ties to the services and said the fair thing would be that this facility would be required to pay in lieu of those types of services, but it may not apply to the school district. He said with public services and without any payment of taxes for these services, he would expect the same condition that applied to Montefiore would apply here.

Mr. Coyne said they are not prepared to answer that at this time.

Ms. Dunn said the assisted living facility represents 20% of the revenue and added that Montefiore does not pay any property taxes.

Mr. Coyne said they certainly can discuss it.

Mr. Lamanna said the taxes are for services such as police and fire and all other ancillary services that the township provides to people.

Mr. Takacs asked if these tax numbers are current.

Mr. Coyne said the millage may have changed.

Mr. Takacs asked what the status is of the Harris property.

Mr. Coyne said it is all under contract at this time.

Mr. Takacs said it looks like 11.5 acres is the Burns property that goes up to the POD.

Mr. Lewis asked what their expectation is of where they will receive their ambulance service.

Mr. Coyne said they will use mostly private ambulances.

Ms. Dunn explained that for scheduled appointments, they contract with private cars and buses and will only use an ambulance for a true emergency and added that there will be a nurse on duty seven days a week, 24 hours per day which eliminates the false alarm calls.

Mr. Lewis asked if that applies to all 300 units that the emergency 911 calls will be through the nurse.

Ms. Dunn replied yes.

Mr. Lewis asked if they could call 911 to dispatch the township.

Ms. Dunn said yes, but they have a call system in the apartments which is an intermediary step and most are false alarms so we can alleviate the false alarm problems.

Mr. Lewis asked if the township sends in an EMS squad, what hospital would they be directed to.

Ms. Dunn said the residents tell us if they want to choose, other times they are taken to the closest hospital.

Mr. Lewis asked which hospital is the closest.

Ms. Dunn said she would think that Geauga Hospital is the closest.

Mr. Lewis said if it ties up a vehicle on a one hour trip, we need to get a sense of what impact it will be and asked if there is an age limit on the residents.

Ms. Dunn said that 62 years of age is the minimum but the average age of entry is 80 to 81 but since it would be a new community, the average age would be the mid-seventies.

Mr. Lewis said with 400 people, and all seniors, some may need an unscheduled ambulance run.

Ms. Dunn said they do have something in place so they do not have to have an emergency run and when managed correctly, it does not happen, because they use the clinic and there is a nurse on duty seven days a week, 24 hours per day.

Mr. Coyne said the traffic consultant did look at that because if the residents are very ill they will use a private system.

Mr. Takacs asked Ms. Dunn if this is her first attempt at independent living suites.

Ms. Dunn said they have 250 apartments with very few 911 calls.

Mr. Takacs asked about the status of water and sewer to this property.

Mr. Coyne said there is city water and they plan to tap into the Chagrin Falls sewer because Geauga County purchased 22% of the Chagrin Falls sewer and Geauga County has not reached that capacity.

Mr. Takacs asked about the estimated usage.

Mr. Coyne said they would use approximately one-fourth of the 22%.

Mr. Olivier asked if there are alternative plans if the county won't allow the tap-in.

Mr. Coyne said it is a matter of using the purchased capacity that has not been used.

Mr. Lamanna asked which of the independent units will be developed in Phase I.

Ms. Dunn indicated per the site plan that there will be 30 garden homes in Phase I and 30 garden homes in Phase II. She said it does need to be 70% pre-sold so we will know we have a solid project before it can go forward.

Mr. Lamanna said what is before us is Phase I and anything else has to come back to the board.

Mr. Coyne said they are looking at the whole project now to address the whole site.

Mr. Lamanna said a decision needs to be made and the board has several things to work out.

Mr. Coyne said that is why they are showing Phase II now.

Mr. Lamanna said it is to let the people know what is going on.

Mr. Lamanna opened the floor for public comments.

Mr. Tom Conaglio of 8062 Chagrin Road testified that he is concerned about the proposed ingress/egress road onto Chagrin Road because Chagrin Road is a bottle-neck now and with 300 more residents on this road it will be worse.

Mr. Chris Pfouts of 7393 Chagrin Road testified that with 300 more homes plus the Chagrin Falls Park homes it will be another 500 homes, with construction workers and employees the road will be used quite a lot and it is in close proximity to Cats Den, Tall Trees, Brigadoon and Stoneridge.

Mr. Tom Saxe of 16720 Brigadoon Drive testified that the township already has a number of these facilities now.

Ms. Kathy Pfouts of 7393 Chagrin Road testified that she is a long time resident of Bainbridge Township and said that Judson has 25 facilities in Ohio.

Ms. Dunn said that is not true, that company is unrelated and we (Judson) only have two facilities in Ohio.

Mr. Bill Redmond of 16700 Brigadoon Drive testified by referring to the proposed underground parking facility and asked if any environmental impact studies have been done.

Ms. Dunn said all of the parcels they are considering purchasing have to go through due diligence, but they did a surface wetland walk through.

Mr. Redmond asked about the proposed inheritance taxes and said it is an assumption that the residents would leave a taxable estate.

Mr. Coyne said they did consult with Ernst & Young about that.

Mr. Lamanna referred to the environmental studies and said all developments are subject to storm water management and a plan must be submitted to the Geauga Soil and Water District for proper run-off before and after construction and is part of the conditions.

Mr. David Mitchell of Woodward and Griffiths, testified that he is the attorney for Richard and Eloise Reiersen of 7421 Chagrin Road and their property is next to the Begy property, the proposed ingress and egress to this property. He referred to the former application at Haskins Road and E. Washington Street by Judson and said in looking at the minutes from those meetings, the board's concern is especially applicable to this property and referred to the findings of facts listed for the denial and said it is the same here. He said this application has another problem in that zoning has a mandatory prohibition regarding residential care facilities being next to LIR property and Mr. McIntyre's review indicates that it is a required variance and as of today, a variance has not been requested by the applicant. He referred to the prior minutes regarding the Judson hearings for the site at Haskins Road and E. Washington Street and said there were substantial conversations regarding use variances versus area variances and he feels this is a use variance. He added that he is prepared to walk the board through the Duncan factors. He continued by referring to Chapter 117.13 of the township zoning resolution and said this facility may not be allowed because it is not harmonious to the Guide Plan 2000.

Mr. Mitchell continued by saying this is not designed to be harmonious to the character of the area and there will be more traffic to the neighboring homeowners. He referred to the minutes regarding the Snavely application for the Harris property and said those minutes were found to have the same characteristics that apply to this application and added that it is adjacent to LIR. He said there is no evidence at this time that this facility will be served by city water and sewers and the sewer plan does not plan for this property to be served. He noted Mr. Tomko's comments of Chagrin Falls Village regarding annexation.

Mr. Lamanna said that the conditional use permit is subject to them entering into a contract and it is up to the applicant that the requirement be satisfied.

Mr. Mitchell said that the prior history on the Harris property was not consistent with the land use plan and this application is not either because the zoning resolution prohibits the property being contiguous to LIR and the property must be connected to a sanitary sewer and the applicant has neither of these things determined yet. He said if they use well water, they must hire a hydrologist and the facility must meet all height, area, and yard and bulk requirements and asked if a height variance is not allowed, would it expand by 20%. He asked where the 83 acres comes from and said the Metroparks property is not a done deal and asked if Metroparks can deed that property away for an easement. He said that Judson has agreed to pay taxes on the independent living suites but that raises a question on whether that portion is considered residential care. He said the Harris property has beautiful trees, wetlands and ponds and there is a need for an environmental study because the Snavely application referred to contaminants from Mogul. He said the biggest concern is with health and safety and the Chagrin Road access will increase traffic versus 28 homes. He continued by saying that visibility is a big concern and construction traffic will likely use the Chagrin Road access and no one will travel down to Franklin Street to get to this facility. He said there are other facilities like this in the area not filled to capacity and he hopes this board and township is not bullied into trading this project for a resolution on Haskins Road.

Mr. Charles Olszewski of 16730 Brigadoon Drive testified that he recently dealt with his mother and mother-in-law and they are both reluctant to move into one of these facilities because the problem with these are the constant ambulances and fire trucks going into these facilities and when the people panic, they call 911. He said that is a lot of noise plus a cost to us.

Mr. John Althans of 17000 Cats Den Road testified that he has a feeling that this was a done deal before they came here tonight and it will affect property values in the area and since there are plenty of nursing homes in the area, we don't need another one.

Mr. Lamanna said the board does not have the power to regulate the number of uses that are permitted other than the separation of gas stations.

Mr. Roland Motley of 16686 Findlay Street testified that he has two concerns, one that Rocker does not connect to that access, there are no sidewalks and we will get 95% more traffic and asked if the township is going to put it in. He continued by mentioning the proposed mound and said he knows what mounds are for and he will have to look at that thing out his back door.

Mr. Fehrenback of the Pattie Group said there will be no mound against Rocker and the mound will only be two feet high to redirect pedestrian traffic just inside the property line and we will create a couple of feet on each side. He said they don't want to give the indication that they will have mounding as on the previous application.

Mrs. Norma Hendler of 16710 Brigadoon Drive presented a petition to the board of zoning appeals regarding the Proposed Judson Retirement Community and Application for Conditional Use Permit with Variances and testified that Mr. Mitchell already covered some of the points.

Mrs. Hendler read excerpts from the following:

“We, the undersigned residents and property owners directly impacted in Bainbridge Township and surrounding communities wish to formally present our opposition and concerns to the proposed Judson Retirement Community, (JRC), and application for a conditional use permit with variances for the purpose of establishing a residential care facility. The property is located in an R-3A district on a site we will designate as the Harris/Burns properties.

The proposed JRC construction and use of this property will present a serious threat to each resident's **Quality of Life, Economic Well-being and Safety** within the specific and outlying communities as it now exists or is intended to be.

It is because of our opposition, and the serious consequences posed by the aforementioned JRC construction and use, that we respectfully request that the following areas of concern be specifically addressed and reviewed for the benefit of our community and included or considered before any approval for the requested variance or zoning is made.

1. Quality of Life and Environment:

The lack of adequate water and sewer treatment for proposed project and the negative impact on those now utilizing available services or water supplies. The current Chagrin Falls water and sewer system is already at or near capacity and no provisions have been planned or committed for this project.

The proposed JRC project and conditional use permit with variance are in direct conflict and disregard for the Bainbridge Township Land Use plans and current zoning district guidelines. The Bainbridge Township Guide Plan for Land Use clearly outlines a direction for low density and continuity with surrounding residential property standards. If approved, this project will certainly set an undesirable precedent for future land use and zoning requests. This will negatively impact those property owners and residents who live, or have invested, in the community based on the township's current and formal plan. The facility's central structure, as proposed, clearly exceeds the height restrictions outlined in the township zoning. A portion of the property is adjacent to a property zoned for Light Industrial Restricted use. Current township zoning clearly states that it is not permissible for a Residential Care Facility to be adjacent to a property zoned as such. The current JRC proposal may not meet the definition of a residential care facility under the O.R.C. outline of such. The JRC proposal does not appear to contemplate or permit additional activities, additional structures or additional ways of enhancing the operation of the residential care facility. The cluster homes and apartments also do not appear to fully comply with the definition set for a residential care facility.

Air and water pollution effects and impact to the specific surrounding communities created by the additional high number and density of residents and employees related to the JRC project. The additional wastewater generated by such a project should be completely analyzed and quantified to determine the full negative impacts on the aquifer and natural resources in the area. The regeneration of the aquifer supplying adjacent properties may not be sufficient to support current needs with the additional water required by the project.

Concerns for potential hazardous waste or contaminants from adjacent property owners should be fully reviewed and investigated (Specifically, but not limited to, claims of contaminants and waste dumped by Mogul Corporation onto the subject property and contamination of well water in surrounding properties.) Soil, water and other samples should be required prior to any further development of the property.

A soil erosion plan and an opinion by the Army Corp. of Engineers has not been submitted by the applicant. Without such a plan it is unclear what negative effects may occur as a result of the new construction and the alteration of the current terrain and sub-terrain.

The additional land traffic will certainly generate increased air and noise pollution affecting the area. This is not only a result of those who will reside in the community but those employed by, working with, constructing, supplying or maintaining the facility. In addition there is likely to be a number of visitors and family who will utilize access to the project as well through the surrounding community.

Recreational and park facilities and the resulting loss or alterations required to accommodate the buildings and proposed access need to be revised in order to maintain the community's needs and future requirements.

2. Economic Impact:

Loss of property values will occur within the specific community and adjacent properties created by, but not limited to, additional traffic, pollution, deterioration of community appearance, strained safety and emergency services capacity and lack of confidence in support for the current township's residential standards and zoning.

Lack of additional tax base to Bainbridge Township and Geauga County resulting in increased community service needs and substantial decline or strain on such services without additional fiscal support generated by the project because of the tax exempt status that may apply for JRC.

Property degradation within the adjacent residential properties and surrounding communities as a result of the increased traffic, safety concerns and alterations to general appearance of the area as it now exists.

There already appears to be more than a sufficient number of similar care facilities within the township and surrounding communities. Current care facilities within the township are operating below capacity and struggling for additional occupancy. At least four such facilities already exist within a five mile radius of the JRC proposed site.

3. Safety Concerns:

Land traffic and the impact of increased number of vehicles utilizing Chagrin Road, Franklin Avenue and other community roadways as a result of access to the project or shorter routes between main roads. There are already four streets within .4 miles of the proposed JRC access road off Chagrin Road. The current visibility is not optimal and the potential for accidents will substantially increase with additional traffic. The JRC proposal also includes access to their services and facilities for non-residents of the project. This is a major concern for safety given the uncertainty of how many additional vehicles will require use of the major roads and local side streets.

Emergency services (Fire, Police, Medical) and township or county maintenance and the inability to adequately provide or maintain such as a result of the increased number and density of proposed residences as well as non residents without additional funds generated by the JRC to support these needs because of their tax exempt status.

The zoning board of appeals should also consider or address the additional law enforcement requirements and safety needs necessary to avoid the existing potential of increased crime, traffic violations, degradation to pedestrian safety and substantial rise in risks of danger to access to main roads. Residents of adjacent properties and surrounding communities will be negatively impacted by these factors.

We, the property owners or residents directly impacted in Bainbridge Township and surrounding communities respectfully request that each of the areas submitted and contained within this petition be reviewed and addressed by the zoning board of appeals before any decision or approval is made with regard to the proposed JRC project and conditional use permit with variances.

The board of zoning appeals has declined similar applications in the past based in part on, but not limited to, some of the following statements or criteria:

A high density project with “purported availability of water and sewer to the property” was declined because the applicant was unable to produce definitive evidence in the record that indicated such services were available. Since such services are not available the board would not consider that factor in rendering its position and must assume they are not available.

“The spirit and intent of the zoning requirement was to limit the amount of development on any piece of property and maintain low density and separation between buildings”. In addition, “the development would not be consistent with the Bainbridge Township Guide Plan for land development as presently constituted and to grant this development would be to usurp the legislative authority of the zoning commission and township trustees.”

“The essential character of the neighborhood and its adjoining property owners would suffer detrimental impact because at least one side of (the proposed project) is adjacent to lots that are of a three acre variety that are not as dense as on the other side.”

These issues and areas of concern are not presented as being all inclusive, but rather, we request that any other issues known but not yet discussed or disclosed to the zoning board of appeals, Geauga County, Bainbridge Township or any other agencies which may have an effect or impact on our community and specific adjacent properties be addressed and reviewed by the zoning board of appeals before any final decision is made.

It is the desire of the adjacent property owners and residents of the surrounding community to indicate to those concerned that the reason for the submission of these specific concerns is not limited to the request for the board’s denial of the requested proposal but to also establish grounds for future mitigation, remuneration or other legal remedies that may be required by those impacted should the application for conditional use permit with variance be approved for the JRC project specified within.”

Mr. Ed Sullivan of 7343 Chagrin Road asked if the portion of property that is next to LIR is in Phase I or Phase II.

Mr. Lamanna said it is one piece of property so that issue is an issue from the get go.

Mr. Sullivan asked if all three parcels will be looked at the same.

Mr. Lamanna replied yes.

Mr. Sullivan testified that he knows the policy on water but is concerned with 300 units on one parcel and the threat of annexation.

Ms. Nancy Burroughs of 7496 Chagrin Road testified that her family has owned the property where she lives for many years and the sewer issue needs to be addressed because it cannot all be taken up by Judson and annexation is a huge issue and a real issue. She said that she has been a probate estate attorney and people can get very good tax plans. She said wealthy people don't die wealthy people. She continued by saying that the fire department will be taxed and Six Flags has rides that people may have to be rescued from and we have the new big shopping center.

Mr. Lamanna said that is why we have mutual aid.

Ms. Burroughs said the rides at Six Flags are not bumper cars and we need to worry about seniors in three story buildings. She said there will be a load of rubbish trucks and food service trucks going in and out and we have all seen some serious accidents because the visibility is so bad on some of these hills. She said not to forget about us, the long-time residents that have lived here a long time.

Mr. John Althans of 17000 Cats Den Road testified that there is a safety issue at the hill by Brigadoon.

Mr. Kevin Reagan of 16745 Brigadoon Drive testified that everyone here did not get a chance to prepare for this meeting.

Mr. Lamanna explained that there are specific requirements of who needs to be notified.

Mr. Reagan asked how far it is to the LIR lot lines and where the structures will be located to the LIR line and said the tax revenue seems to be disappearing, first the taxes were 1.2 million dollars and then \$575,000.00. He asked if a traffic study has been done.

Mr. Mike Stone of 16755 Brigadoon Drive testified that there is no authority to restrict the number of stores or other facilities in the township but you are being asked to grant a variance and asked why the board would make exceptions to the zoning.

Mr. Lamanna said there are certain criteria or legal standards in determining the granting of a variance.

Mr. Stone said there is no benefit to the community here.

Mr. Lamanna said the issues are the impacts to the community and the board has legal standards that it has to follow or the decision will get overturned by the courts and if the board makes a decision to deny this application, the decision has to stand up in court and added that the board makes a decision as a judicial body.

Ms. Sandy Miragliotta of 8062 Chagrin Road testified that she understands but said they are presenting three year old numbers and they don't have any of the answers, no concrete shred of evidence, only estimates.

Ms. Donna Weiss-Carson testified that she owns property on Brigadoon Drive and was born and raised in Bainbridge Township. She stated the following:

1. Whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property without the variance. Ms. Weiss-Carson said yes there can be a reasonable return because 28 homes can be built on the property.
2. Whether the variance is substantial. Ms. Weiss-Carson said yes the variance is substantial.
3. Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer a substantial detriment as a result of the variance. Ms. Weiss-Carson said the facility will service 400 residents and employees and will substantially alter the character of the neighborhood because of excess traffic and noise, it will affect property values in the neighborhood and it will be an asphalt jungle.
4. Whether the variance would adversely affect the delivery of governmental services. Ms. Weiss-Carson stated that the fire department and police department will be burdened.
5. Whether the property owner purchased the property with the knowledge of the zoning restriction. Ms. Weiss-Carson replied yes.
6. Whether the property owner's predicament feasibly can be obviated through some method other than a variance. Ms. Weiss-Carson stated yes, by possibly going somewhere else.
7. Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance. Ms. Weiss-Carson stated that substantial justice should be considered when looking at the residents around. She said this is a large commercial enterprise and they are ravenous for property and we don't need another facility like this. She said we will be known as the Senior Center Capital of Northern Ohio.
8. Whether granting the variance requested will be contrary or derogate from the general purposes of this Zoning Resolution as provided in Section 101.02, Bainbridge Township Guide Plan for Land Development, 2000, and the district involved as provided in section 131.04. Ms. Weiss-Carson said that water quality is important and the residents want to live on well water and they do not want sewers. She said substantial justice will not be done by allowing a fifth facility in the area. She concluded by saying those are the standards necessary for an area variance.

Mr. Lamanna explained that residential care facilities are a permitted use in this location.

Ms. Weiss-Carson told the board they are appointed by the township trustees and they should listen to the residents. She said the rural character of Bainbridge Township has gone and the value of our properties are in the board's hands.

Mr. Mitchell said these facilities are allowed as a conditional use and if it is adjacent to LIR which is prohibited, it does not apply.

Some residents stated that it sounds like a decision has already been made.

Mr. Lamanna explained what criteria is needed to help the board make a decision.

Mr. Coneglio of 8062 Chagrin Road testified that the community does not want this here.

Mrs. Maxine Althans of 17000 Cats Den Road testified that she has lived here a long time and has raised three children and has seven grand-children and Chagrin Road will be like Route 306 before it is over with. She said another community offered them to locate there but it is not a Chagrin Falls address and we do not want them and no one is really listening to us.

Mr. Lamanna said the board listens to everything and to everyone's concern and it is helpful to site specific evidence.

Mr. David Orr of 7474 Chagrin Road testified that he feels terrible about this and when they put a nice building on the Burns' property they said it would be a protection, not a gateway for this and urban sprawl. He said the bike trail would go straight with foot transportation into Chagrin without 1-1/2 times its present length and will be wonderful for the existing community. He said when Snavely was here, it was two pieces of property divided by the Metroparks trail. He continued by saying that the policy of Metroparks is to not let people eat away at them and there is only one exception and that is when a political subdivision gets involved and he feels this is a done deal and a lot of negotiations have been done behind everyone's backs.

Mr. Lamanna said the whole premise is if the applicant acquires the strip of land owned by Metroparks and no done deal has been made here and there have been no negotiations with this board and added that there is current pending litigation between the applicant and the board of trustees.

Mrs. Norma Hendler referred to Chapter 135.06 (b) of the zoning resolution that requires that an residential care facility shall not be adjacent to a LIR zoned area and asked if this rule can be overridden or negated.

Mr. Kevin Reagan said there is no variance request from the LIR area on the application.

Mr. Tony Coyne testified that he wishes this was a done deal but they are here to get comments and said the effect of being adjacent to LIR is not a concern because of its proximity. He said it is not on the application and we will have to meet with the zoning inspector to address that. He referred to the zoning map and said most of the property is zoned R-3A and the property on the northern edge is owned by Metroparks and zoned POD and it is not immediately adjacent to LIR. He said they may have to request an area variance for that. He continued by saying they will have a traffic study done but the traffic will be low. He said in reference to the schools, it comes to approximately \$300,000 per year and they did hire an appraiser prior to this and there was no indication this facility would have a negative impact on the adjacent properties. He said no issues were raised by the Bainbridge Fire Department and we can provide data on 911 calls. He said water is available and sewer would be available but we have to work out that issue. He said there were a lot of comments and concerns which are the same as theirs and they will be back to address many of the issues that were raised.

Mr. Ted Seliga of 8654 N. Spring Valley Drive testified that there is an issue of potentially breaking the zoning and it does present a problem because if they don't abut LIR, they are not abutting POD either and in order to develop the property, they would have to consolidate the lots.

Mr. Lamanna said they could merge the parcels into one parcel and the board needs to look at the LIR more closely and exactly where the LIR district ends.

Mr. Lewis said the old Metroparks trail was a railroad and the land was originally zoned LIR so some additional exploration is required because if the railroad is LIR, it runs the entire length of the property and if Metroparks advertises it for sale, someone else could buy it.

Mrs. Maxine Althans asked why the access street has to come out on Chagrin Road.

Mr. Lewis told her she would have to ask the applicant other than the fire department would like to have the access onto Chagrin Road.

Mrs. Althans asked why the access could not come out on the Burns property because it would be down further and away from the other roads that already exist.

Mrs. Hendler said why not move the road down to go through the POD area.

Mr. Lewis said the point of entry won't change the traffic, only the point of entry will change.

Mr. Seliga referred to the zoning code which reads "the RCF shall not be expanded beyond its original lot lines of record ..." and asked for an explanation because there is more than one parcel here.

Mrs. Hendler said the RCF shall not be expanded beyond its original lot lines of record.

The board reviewed the zoning code regarding residential care facilities.

Mr. Lamanna explained that it means that a CUP cannot be expanded, the applicant cannot come back five years later and want to expand the facility. He said it prevents another facility from coming in on an adjacent parcel.

Mr. Lewis said it prevents leap-frogging.

Mr. Lamanna said the applicant cannot buy additional parcels and continue or add to it.

Mr. McIntyre discussed the LIR zoned piece with the board members.

Mr. Lamanna said it appears that the property does not actually border the LIR district so it does not look like there is an issue here.

Mrs. Hendler said adjacent means near.

Mr. Lamanna said his interpretation is that the properties must abut each other.

Ms. Nancy Burroughs stated that if they have something there, the traffic will increase and you can hear the trucks breaking now and it does have an effect on the property.

Mr. Lamanna said all aspects need to be considered and the other consideration here is the fire department will have access to get into Chagrin Falls Park rather than going around.

Ms. Burroughs asked if that should have been addressed when Brigadoon went in.

Mr. Lamanna said he did not know.

Mr. Orr said it takes two minutes and 41 seconds to go around to Rocker and going through the Begy property, will take about one minute and added that it takes a lot longer to get to the amusement park.

Ms. Darlene Daugherty of 16750 Brigadoon Drive testified that Mr. Tony Coyne stated that there will not be an increase in traffic, so why do we need the additional road.

Mr. Lamanna said he is not sure Judson really wants this road, it is the Bainbridge Fire Department that wants it.

Mr. Kevin Daugherty of 16750 Brigadoon Drive testified that he purchased two properties in the Chagrin Falls Park and asked if the township would like to put a road through his property. He said they are .06 of an acre and were purchased for \$2500.00 a piece and he bought them so no one will build behind him. He continued by saying that the politics in Bainbridge are so bad, they should have been purchased for \$50.00 a piece. He said a lot of people have been heard here and they don't want this facility and he would like the board to reject this. He said it is worth fighting a battle even though you know you are going to lose.

Mr. Coyne said they (Judson) had no more comments but will address the issues.

Mr. John Althans said the residents feel they have lost the whole thing.

Mr. Seliga stated that he has watched this board before and they are looking out for the residents' interests and have protected our zoning and he really respects this board for the outstanding job they have done.

Ms. Kathy Pfouts asked what the residents should focus on.

Mr. Lamanna said one thing is the variances this project is requesting and another issue is the traffic, the best location for the access road, site lines, type of traffic in and out and how often the trash is picked up and how it will have an effect on Chagrin Road. He said the important detail that needs to be addressed is how the board will address the issues of the residential care facility regulations and how it addresses all of these independent living units and there is a question as to how we should consider that and if it is meant to include this type of thing. He added that what the board does here cannot control annexation because the property owner could request annexation itself. He continued by saying that everyone is asking what effect it will have on their property values, but you need concrete evidence to prove that, like what had happened with other facilities like this etc. He said the board needs facts because we cannot ride on speculation, we have to have factual information to base our decision on. He said he wants to make sure that the board develops a record best for everyone and the people have to help the board make a decision by giving the board facts. He said the board needs information it can use to make a well reasoned decision and the board has worked hard to try to make the best decisions and unfortunately to say a decision has already been made, it has not. He referred to Canyon Lakes as a good result of what can happen and told the residents to not get too carried away. He said this property will get developed some day so you have to look at all the other possible alternatives. He told the audience that they can all help the board make a decision on this by providing all the relevant facts.

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

Motion BZA – 2003-9 – Judson Retirement Community for property between Franklin Street, Rocker Avenue and Chagrin Road in Bainbridge Township

Mr. Lamanna made a motion to postpone consideration of this application until the next regularly scheduled meeting to be held April 17, 2003.

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 10:33 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

