

Bainbridge Township, Ohio
Board of Zoning Appeals
May 20, 2010

Pursuant to notice by publication and certified mail, the public hearing was called to order at 7:02 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 2010-6 by Robert D. Etling for property at 18672 Snyder Road

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

The zoning inspector's letter dated May 20, 2010 was read.

Mr. and Mrs. Robert Etling were present to represent this application.

Mr. Etling testified that he demolished his old garage and would like to build a slightly larger one on the same site. He said that the old one was 20' x 18' and he would like to build a 22' x 22' building. He referred to a site plan and said the old garage was only 15' from the south property line and it would be a hardship if he had to move it 50' away because it would interfere with his septic field, the lines coming from the house to the septic tank, so that is the main reason he wants to put it in the same spot.

Mr. Horn said it is going to be a little bit bigger but it is still going to be 15' off the line so it will be a couple of feet closer to the house then.

Mr. Etling replied yes.

Mr. Horn said it will be a little bit bigger but still 15' off of the lot line, right.

Mr. Etling said yes, maybe a foot, it is going to go around the perimeter that is there but it doesn't show on any of the drawings.

Mr. Horn said maybe a little bit closer because it will be 22' wide opposed to 20' wide.

Mr. Etling said yes, it will only be a foot closer.

Mr. Lewis asked if the existing concrete pad or foundation will be used.

Mr. Etling said everything was taken out.

Mr. Lewis asked what is there now.

Mr. Etling said just gravel but there may be the lower part of the walls underground and he thinks they took out the first layer of block and they took out the pad.

Mr. Lamanna asked if a new foundation will be put in for this.

Mr. Etling replied yes.

Mr. Murphy asked if there is any reason why the same foundation cannot be used to the back line and not get any closer than 15' or did the contractor specifically say he has to go a foot closer to the property line or could the new building be put on top of the old one parallel to the property line and if there is any reason it cannot stay at 15'.

Mr. Etling said he did not think so, he just has to dig down and get the block out.

Mr. Murphy said if it is there already, why would that have to be done unless it wasn't properly done.

Mr. Etling said he does not know how deep that went, they took out the first layer of block below ground level.

Mr. Murphy said he is not sure when it was built but even 20 years ago they went down to the frost level, 42" down, which in 20 minutes an excavator with a shovel could tell you if that foundation is down there and proper then why not build right on that foundation if it is okay, why are we talking about going any closer to the property line if you have got a decent foundation there. He said he thinks that is a question that the contractor would have asked beforehand unless he wants to charge you for the extra concrete.

Mr. Etling said that 20' is the depth of the garage, not the width.

Mr. Horn said now it is 18' wide and it is going to be 22'.

Mr. Murphy said you are talking about going 2' closer to the property line then if he is going to center it.

Mr. Etling said he does not see any reason why it can't stay at the 15'.

Mr. Murphy said that is what he is asking too.

Mr. Olivier said it will be 4' into the yard on the eastern side.

Mr. Lamanna said it is still going to be 8' offset from the house.

Mr. Olivier said he just wanted him to be aware if the board agrees to 15' that it is actually going to be 4' further in on the right side.

Mr. Lamanna asked if there is a house on the south side.

Mr. Etling said the house is at least 100' away from the garage.

Mr. Murphy asked if that homeowner is here tonight.

Mr. Etling said he does not know, he does not know him.

Mr. Murphy said he was notified, obviously, but not here.

Mr. Lamanna said his house is 100' away from the property line.

Mr. Horn asked if there is a narrow strip next to this property that goes to the property behind.

Mr. Etling said yes there is an easement there.

Mr. Horn asked how wide that easement is.

Mr. Etling said it is about 20'.

Mr. Horn said then the next house is on the next property.

Mr. Lamanna asked if that is a flag lot.

Mr. Horn said yes there is a big lot behind his that is 20' wide.

Mr. Lamanna said it is not going to be built on.

Mr. Horn said it is an additional buffer next to the neighbor.

Mr. Murphy said somebody might build on it.

Mr. Horn said a driveway would be the only thing that could be put on it.

Mr. Murphy said right, nobody is going to be building right next to the shed but he would not like to see it get any closer than it is, if it all possible. He said if there is a reason that he can't use those footers, then maybe he would think about letting it go to 13' but since there is a usable foundation there, it is possible that Mr. Etling can talk to his excavator to find out if it is usable and if it is not, it still has to be dug down to 42" but he does not think it should get any closer to what is already there.

Mr. Lamanna said he does not think it should get any closer and there is still plenty of room before it gets into the septic field.

Mr. Murphy asked if there are any lot coverage issues.

Mr. Shane Wrench, Zoning Inspector testified by saying no.

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

Motion BZA 2010-6 – 18672 Snyder Road

Mr. Lamanna made a motion to grant the applicant the following variance for the purpose of replacing an existing garage.

1. A variance from the minimum required side yard setback of 50' to 15' for a variance of 35'.

Based on the following findings of fact:

1. The applicant is replacing an existing garage with a similar size garage at about the same location which was previously only 15' from the side lot line.
2. To move the garage farther over would run into the septic area.
3. It is at the end of the existing driveway.
4. There is an adjacent 20' flag lot strip along that side of the property line providing additional buffer and the adjacent property owner's house is set back an additional difference between his side and the yard so there is a practical difficulty and this will not add any impact to the adjoining property owners.

Mr. Lewis seconded the motion.

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

Application 2010-7 by Alan Tatro for Pilgrim Village Lake Colony for property at Pilgrim Village Common Area/Beach Area

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

The zoning inspector's letter dated May 20, 2010 was read.

Mr. Alan Tatro, representative of the Pilgrim Village Homeowners Association was present to represent this application.

Mr. Tatro referred to the site plan and testified by indicating the lot lines, Pilgrim Village Lake, the common area, other properties and Alden Street and said there is an existing pavilion and an existing shed. He said right now there is a charcoal grill in this location, he referred to the site plan, and it is adjacent to a brick patio and it has been there for quite awhile. He said the women's club wants to put in an open air grill cover and referred to the sketch submitted. He said the sketch shows the stainless steel charcoal grill and they want something to protect the grill that is grilling from the rain.

Mr. Lewis asked if it is like a canopy pavilion.

Mr. Tatro replied yes.

Mr. Lamanna said it will have open sides.

Mr. Tatro said yes exactly.

Mr. Olivier asked if it is connected to the picnic pavilion.

Mr. Tatro said no.

Mr. Murphy asked if the grill is on the aerial photograph.

Mr. Tatro said it is and the front edge will be right against the brick patio.

Mr. Murphy referred to the GIS aerial photo and asked if the red triangular line is anything relevant to the proposed project because if it is, it is cutting right through the middle of the frame shed.

Mr. Shane Wrench, Zoning Inspector testified that it has been discussed but Mr. Gutoskey has done a survey.

Mr. Tatro said Mr. Gutoskey, who is a licensed surveyor, provided the drawing.

Mr. Lewis asked if Pilgrim Village's Architectural Review Board approved this.

Mr. Tatro said he has a letter from the president.

Mr. Murphy asked if the new grill cover is only 6' deep.

Mr. Tatro showed an elevation view to the board.

Mr. Murphy said so it is just barely big enough to cover that grill.

Mr. Tatro replied yes.

Mr. Horn asked what the height is going to be.

Mr. Tatro said it is going to be 8' to the eave and 2'-6" to the peak which is less than the pavilion.

Mr. Olivier asked what the shed is used for.

Mr. Tatro said the lifeguards store their equipment in there.

The board reviewed the zoning regulations regarding this application.

Mr. Horn asked how long the grill has been there.

Mr. Tatro said he is guessing 15 or 20 years at least and added that it is mounted on a concrete pad.

Mr. Lamanna said technically it is not an accessory use because there is no primary use.

The board continued reviewing the zoning regulations.

The board discussed passive park zoning versus zoning for common areas in private communities.

Mr. Tatro said that even though it is a private community it is open to people outside of the community.

Mr. Horn said it is analogous to it in terms of the use of the property because it is restricted on who can use it.

Mr. Tatro said yes.

Mr. Murphy asked about the owner of lot B-66.

Mr. Tatro said he does not know their names.

Mr. Murphy asked if any of the neighbors are here to object.

Mr. Tatro said he does not think so and because of the proximity to the pavilion he can't see it as being obtrusive because the pavilion and shed are much bigger.

The board discussed the location of the existing homes.

Mr. Wrench referred to the Passive Park District regulations and said they have shelters and pavilions listed as conditional uses.

The board discussed how zoning regulations are treated for common areas within subdivisions.

Mr. Tatro asked Mr. Wrench what basis he used for denying the application and recommending the variance procedure.

Mr. Wrench said it was because the county has it listed as other residential so he used the residential zoning regulations.

Mr. Lamanna said he used the closest thing that would be applicable and technically if something is not specifically permitted then it is not allowed, if they leave something out it is by inclusion not by exclusion. He said he is concerned about it because it looks like there is not really a provision to cover this and he does not know if people thought it was just covered by the residential lot zoning but technically you couldn't put any of these things on here because they are only permitted as accessory uses and since there is no primary use, they are not permitted. He added that if you got into a situation that somebody was opposing something the board could have a problem dealing with it.

The board reviewed the setbacks for the subdivision when it was created.

Mr. Lewis said he is not so sure the dilemma is the setback variance, it is the structure without a primary dwelling on a residential property.

Mr. Tatro said the existing pavilion has a similar function.

Mr. Lewis said but it is an accessory structure.

Mr. Lamanna stated that this should be referred to the Zoning Commission because there are not any provisions in the zoning resolution for this kind of thing.

Mr. Horn said there is no history of the grill being there.

Mr. Tatro said that the house was built in 1960.

Mr. Lamanna said there is a gap in the zoning that needs to be addressed.

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

Motion BZA 2010-7 – Pilgrim Village Common Area/Beach Area

Mr. Lamanna made a motion to grant the applicant the following variance for the purpose of installing a new grill covering pergola type structure as shown on the applicant's drawing.

1. A variance from the minimum required side yard setback of 50' to 24' for a variance of 26'.

Based on the following findings of fact:

1. The structure is being constructed in a common use area for a homeowner's association.
2. There are other structures already located on this property, a number of which are less than 50' away including a large picnic pavilion, so the addition of this structure will not significantly change the use of this area nor will it adversely affect the neighboring property owners.

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 7:44 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: June 17, 2010

AUDIO RECORDING ON FILE

Bainbridge Township, Ohio
Board of Zoning Appeals
May 20, 2010

The regular meeting of the Bainbridge Township Board of Zoning Appeals was called to order at 7:44 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 April 15, 2010 meeting as written.

Mr. Horn seconded the motion.

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

Other Business

Mrs. Rosemary Cale of 17120 Bridgeway Drive met with the board to discuss BZA application 2010-2 at 17110 Hidden Point Drive regarding her neighbor's request for a side yard setback variance and subsequent approval for the placement of a generator.

Applications for Next Month

Application 2010-8 by Mark Nelson for property at 16870 Chillicothe Road

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

Application 2010-9 by Scott C. Hartman for property at 17665 Haskins Road

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

Application 2010-10 by Kim Phillips c/o Dalcan LLC dba Panera Bread for property at 8480 E. Washington Street

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

Application 2010-11 by Bainbridge Shopping Center II, LLC for Five Below for property at 7145 Market Place Drive

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

Application 2010-12 by Mark Seifried for property at 18010 Birch Hill Drive

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

Application 2010-13 by Gregory Sharp for property at 17070 Maple Drive

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

Since there was no further business, the meeting was adjourned at 8:45 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: June 17, 2010