

Bainbridge Township, Ohio
Board of Zoning Appeals
June 16, 2022

Pursuant to notice by publication and ordinary mail, the public hearing was called to order at 7:05 P.M. by Mr. Michael Lamanna, Chairman. Members present were Mr. Brent Barr, Alternate; Mr. Ted DeWater; Mr. Joseph Gutoskey and Ms. Lori O'Neill, Alternate. Mr. Todd Lewis and Mr. Emeil Soryal were absent. Ms. Karen Endres, Zoning Inspector was present.

Mr. Brent Barr, Alternate and Ms. Lori O'Neill, Alternate joined the board for consideration of these applications in Mr. Lewis' and Mr. Soryal's absence.

Mr. Lamanna welcomed everyone to the regular meeting of the Bainbridge Township Board of Zoning Appeals, explained the public hearing process and stated that individuals will be sworn in when the application is started.

Mr. Lamanna swore in Ms. Karen Endres, Zoning Inspector and he let the record reflect that Ms. Endres was duly sworn.

Application 2022-23 by Justin Henry for property at 17896 Kingswood Drive-
Continuance

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

Mr. Gutoskey moved to continue this application to the next regularly scheduled meeting to be held July 21, 2022 at the request of the applicant.

Ms. O'Neill seconded the motion.

Vote: Mr. Barr, aye; Mr. DeWater, aye; Mr. Gutoskey, aye; Mr. Lamanna, aye; Ms. O'Neill, aye.

Application 2022-25 by Maria E. Chelbezan for property at 8968 Taylor May Road

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

Mr. Adrian Chelbezan and Mrs. Maria Chelbezan, property owners, were present to represent this application.

Mr. Lamanna swore in Mr. Adrian Chelbezan and he let the record reflect that Mr. Chelbezan was duly sworn.

Mr. Chelbezan testified that he will be doing the speaking and he gave the board the break-outs and you can see the pictures before and after. He said the porch was really unsafe and he tried to repair it, something on it, this and that and it just didn't work out so in the end they ended up knocking everything down and rebuilding. He said his problem is that he never realized that you have to be so far from the street so he guesses he is 7' too close to the street so when he applied here Mr. Averill had to deny his application but he does see that just from his street there are quite a lot of homes so he is not out of the ordinary to build and they had to change the steps and the structure because they were really unsafe, one step was 4', one step was like 3-1/2' built 30 years ago, there were overgrown bushes between the bricks that he minimized and he has a drawing of his property and he minimized an amount of concrete and an amount of everything spent which is laid down so it is much, much less of a footprint on the ground but you can see, even his neighbor is 50' to the street on Taylor May which actually means he is probably 40' from the right-of way so he is way farther back so he asks the board to allow him to keep what he built. He said he didn't know that there was such a regulation otherwise he would have tried to make it a little different but now it is actually safe to stand underneath because there was not enough space for two people to stand there before, the steps were really crumbly. He asked the board if they have any questions. He said the pictures can talk for themselves.

Mr. Gutoskey said yes they do, it looks very nice. He said he has been driving up Taylor May through here over the last couple of months and he has noticed you have done a lot of work.

Mr. Chelbezan said and he can show you the before and after drawings on old fashion paper. He showed the board the site plan and said you can see the footprint, this is the old area here and the new is taking way less space so everything has been made smaller and they narrowed the driveway. He said you can see how much we cut off and all of this underneath was all built-out concrete, the sidewalks all the way around is all gone, really all he has is this and the steps going down so he definitely, from the center of the road he is 98' from the beginning of the house, he guesses he is 7' farther than the law allows here so that is what he is asking for, that 7'.

Mr. Lamanna asked how big is that new porch, total.

Mr. Gutoskey said it is 14' x 12'.

Mr. Chelbezan said it is 14' x 12' and in one area it is 9'. He said if you look at the drawing it is really not past much where the other one was but the other one was, you can see, about 2' shorter so this was the steps over here and this was all a concrete pad around it.

Mr. Lamanna said so currently we are at 465 sq. ft. over, right.

Mr. Gutoskey said yes and that is after eliminating 1,453.

Mr. Lamanna said he can see from some of the pictures, there was a lot of area over there.

Mr. Chelbezan said you couldn't find the house.

Mr. Barr asked Mr. Chelbezan if he tore the old house completely down.

Mr. Chelbezan said no sir.

Mr. Barr said he went by the one day and then he went by two weeks later and he couldn't tell what had happened there.

Mr. Chelbezan said it does look like a new house and sometimes he wishes other neighbors would get inspired.

Mr. Lamanna asked if there is anyone else here interested in this application if there are any questions.

Mr. Gutoskey said it is a real nice improvement and when you look at the setback it is open too, it is not solid walls.

Mr. and Mrs. Chelbezan said thank you very much.

Mr. Lamanna said he is thinking about adjusting the lot coverage to 9,800 sq. ft. that way if it is a little bit off you won't suddenly find out that it is 37 sq. ft. shy so this way if you need to put in some little piece of concrete somewhere you are not going to have to come back for another variance for some small project.

Mr. Gutoskey said you are talking about 627 sq. ft.

Mr. Lamanna said yes.

Since there was no further testimony this application was concluded.

Motion BZA 2022-25 – 8968 Taylor May Road

Mr. Lamanna moved to grant the applicant the following variances with respect to maintaining the construction of a new front porch.

1. A variance from the minimum front yard setback from 75' to 68'.
2. A variance from the maximum lot coverage from 9,173 sq. ft. to 9,800 sq. ft.

Based on the following findings of fact:

1. With respect to the front yard setback the applicant needed to replace his front porch and in the course of doing that increased the size of it by a small amount but at the same time he reconfigured the access to the front porch by substantially reducing an amount of paved area that existed.

Motion BZA 2022-25 – 8968 Taylor May Road - Continued

2. The original front porch was a very small area that provided a small respite from the elements.
3. This is a much more reasonable size and since this is a long pre-existing house it is a practical difficulty because you can't move the house back to obtain additional space.
4. Further in looking at this setback variance, it is so small that it certainly does not affect the character of the neighborhood nor does it adversely affect any of the adjacent property owners.
5. With respect to the lot coverage it is a small increase from that permitted.
6. This lot is less than the normal size lot required in this area.
7. The amount of lot coverage has actually been reduced from what it was prior to various projects by over 1,000 sq. ft.
8. In looking at the lot utilization in the neighborhood this is consistent with the type of utilization in the amount of lot coverage that exists on the adjacent property.
9. This small increase will not adversely affect the neighboring properties or the character of the neighborhood.

Mr. DeWater seconded the motion.

Vote: Mr. Barr, aye; Mr. DeWater, aye; Mr. Gutoskey, aye; Mr. Lamanna, aye; Ms. O'Neill, aye.

Application 2022-26 by Jackie Lockhart for property at 17172 Cats Den Road

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

Mr. Lamanna moved to postpone this application to the next regularly scheduled meeting to be held July 21, 2022 at the request of the applicant.

Mr. Gutoskey seconded the motion.

Vote: Mr. Barr, aye; Mr. DeWater, aye; Mr. Gutoskey, aye; Mr. Lamanna, aye; Ms. O'Neill, aye.

Application 2022-27 by Douglas W. Mason for property at 17803 Lost Trail

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

Mr. Lamanna noted that Mr. Gutoskey has recused himself from the consideration of this application so it will be determined by the remaining four board members.

Mr. Douglas Mason, property owner was present to represent this application.

Mr. Lamanna swore in Mr. Douglas Mason and he let the record reflect that Mr. Mason was duly sworn.

Mr. Douglas Mason testified that it is a pre-fab shed, not yet ordered that will be constructed and dropped in place and the reason for the variance is it is going to be on the sidewalk behind his house so it is a little more than 5' away from the house. He said rather than making alterations to either roofline he is choosing not to put on a breezeway and the reason for the shed is for 25 years he has never managed to get his car in his two-car garage and he is very much motivated to make that happen before winter, that is the reason. He said he has a snowblower for the driveway that he will store in that shed in the winter and he needs it close to the driveway obviously.

Mr. Lamanna asked Ms. Endres if this requirement comes out of 165.15 (a), he assumes this goes back to the reference that is in there.

Ms. Karen Endres, Zoning Inspector testified that it is in the 1977 zoning resolution.

Mr. Lamanna said okay and just for curiosity, do we have that in our book somewhere or not.

Ms. Endres said it is not copied in it is simply referenced so setbacks relevant to non-conforming lots are subject to the regulations that were in place in 1977 so Mr. Mason's lot is a non-conforming lot, it was platted before the three and five acre zoning so the setback regulations applicable to buildings and structures go back to the 1977 regulations which are smaller setbacks because of the smaller lots and there is also a setback provision that required a setback of 20' between the dwelling unit and an accessory building.

Mr. Lamanna asked is that how it is worded, accessory building, not structure but building.

Ms. Endres said not structure, a building.

Mr. Lamanna said so it has to be a building.

Ms. Endres said right.

Mr. Lamanna said the interesting question he has is that we have a requirement that goes back to an earlier zoning but if this was being built on a conforming lot, all other things being the same, same structure, this wouldn't be required.

Ms. Endres said it would be a different setback, it would be now a 10' setback.

Mr. Lamanna said now it is 10’.

Ms. Endres said right, the current setback is 10’, the setback from 1977 is 20’ between the dwelling and the accessory building. She said it is not for all structures, such as sidewalks are structures, we are applying this to buildings.

Ms. O’Neill asked if that concern is related to fire.

Mr. Lamanna said his question was do we have an understanding as to why this is in here, does anybody have any idea as to the reason why this is in there.

Ms. Endres said the only thing she could figure out is it probably had to do with fire safety and access between buildings so like if the fire department had to get in for some reason they could get between the buildings and in this case, this is in the backyard, the fire department probably would access from the front yard.

Mr. Lamanna said it is a small building, it is a tiny little building.

Ms. O’Neill said additionally she thinks if it is to store lawn equipment and potentially gasoline and things that might have a chemical makeup that could be flammable that if something happened in that accessory building it is awfully close to your house and it could spread very quickly to the main structure.

Mr. Lamanna said if people didn’t have it in their accessory structure they would have it in their garage so at least it is in another building.

Mr. Barr said your reasoning for putting it so close is because there is already concrete there.

Mr. Mason said his biggest reason is his snowblower, he can’t go across his yard to access it when he wants to clear his driveway, he doesn’t want to have to move his car out of the garage to access his snowblower so this snowblower is the single biggest reason in the wintertime.

Mr. Barr said you are talking to a guy, in his development, they don’t get to have sheds so he has to move his car out to get his snowblower out. He asked if there is concrete already there.

Mr. Mason said yes, there is a sidewalk behind the garage and that is the reason for the location.

Ms. Endres displayed photos of the property for the board.

Mr. Mason said you can almost see the sidewalk. He said he chose the size of the shed, it will stop 12', it makes it 2' short of the end of his garage so they won't see it from the street, Mr. Gutoskey would see it if he was still there. He said so it is about getting his car out of the driveway.

Ms. Endres said she wants to clarify that the section that was referenced earlier where it said buildings and structures, so 165 references buildings and structures, when you go to that provision in the 1977 regulations the 20' distance is only applicable to buildings so the current regulation is applicable to buildings and structures and in 1977 the particular piece of code.

Mr. Lamanna asked what is the current resolution.

Ms. Endres said 165.15 points to the 1977 regulations.

Mr. Lamanna said right but if it had a conforming lot.

Ms. Endres said if it had a conforming lot it would be a 10' setback.

Mr. Lamanna said and that is in where.

Ms. Endres said that is in chapter 135.

Mr. Lamanna said if you start with the premise that we currently allow on a conforming lot a 10' setback then moving to a 10' setback is like a no issue at all because if we are allowing that he can see no basis that there should be any distinction between the two so the question is we are now moving from 10' to 5.4'. He asked if anybody has any questions. He said given the small size of this building.

Mr. DeWater said that and the Pilgrim Village Homeowner's Association signed off on it.

Mr. Lamanna said he thinks it is far enough away that he doesn't think it poses any particular hazard and there is certainly still room to get around the building if somebody needs to get around the building given the size of it so he just doesn't see that this is certainly going to affect anybody and the general rule for something like this the closer it is to the main structure the less it impacts on anybody else.

Mr. DeWater said it is going to be behind the envelope of the house.

Mr. Lamanna said it will definitely be behind the envelope of the house.

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

Motion BZA 2022-27 – 17803 Lost Trail

Mr. Lamanna moved to grant the applicant the following variance for the distance between the shed outbuilding and the main structure from the required zoning.

1. A variance from the required setback of 20' to 5.4'.

Based on the following findings of fact:

1. The board notes that the current requirement for conforming lots is only 10' between a building and an accessory structure and there is certainly no reason not to apply that.
2. In this case due to the small size of this building and the use for which it is going to be put and the fact that it will be completely behind the main structure, but it still would have the adequate room to go around all sides of the structure and maintain a reasonable clear distance to the main structure.
3. This variance is reasonable.
4. Also, again, it will not adversely affect any of the neighboring properties because it will be well shielded from view.

Mr. DeWater seconded the motion.

Vote: Mr. Barr, aye; Mr. DeWater, aye; Mr. Lamanna, aye; Ms. O'Neill, aye.

Mr. Gutoskey returned to the meeting.

Since there was no further testimony, the public hearing was closed at 7:34 P.M.

Respectfully submitted,

Brent Barr, Alternate
Ted DeWater
Joseph Gutoskey
Michael Lamanna, Chairman
Todd Lewis, Vice Chairman
Lori O'Neill, Alternate
Emeil Soryal

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

Date: July 21, 2022

AUDIO RECORDING ON FILE

Bainbridge Township, Ohio
Board of Zoning Appeals
June 16, 2022

The regular meeting of the Bainbridge Township Board of Zoning Appeals was called to order at 7:34 P.M. by Mr. Michael Lamanna, Chairman. Members present were Mr. Brent Barr, Alternate; Mr. Ted DeWater; Mr. Joe Gutoskey and Ms. Lori O'Neill, Alternate. Mr. Todd Lewis and Mr. Emeil Soryal were absent. Ms. Karen Endres, Zoning Inspector was present.

Mr. Lamanna stated that the next order of business is one of the applications which would be subject to a previous decision becoming final has asked to come in and address the board with respect to the decision rendered at the board's last meeting.

Application 2022-22 by Rod Ramsey for property at 8654 Taylor May Road

The applicant is requesting area variance(s) for the purpose of installing ground mounted solar panels. The property is located in a R-3A District.

Mr. Rod Ramsey, property owner and Mr. Daniel Quinlan of Valley Solar Energy were present to represent this application.

Mr. Ramsey said he would like to start off by saying thank you for giving him a variance the last time, he respects that very much and he thanks you for letting him come back and let you help him explain to you so you can understand why he is here. He said the last time he didn't have the correct pictures so you can understand that solar panels need sunlight.

Mr. Lamanna swore in Mr. Rod Ramsey and he let the record reflect that Mr. Ramsey was duly sworn.

Mr. Ramsey testified that he took your request to put them in another location, cut down an eighth of an acre of trees, and both of the trees are actually a problem because they are so high and he still removed them but he wants the board to understand what is going on here, in this area, they wanted me to put the panels, now this is at 2:15 in the afternoon. He gave the photos to the board. He said this is during the summertime when the sun is at its highest and its peak production time, in the wintertime that is going to be significantly reduced by 4:00, it is going to be dark, if not even darker. He said his request was to put the panels in this location and you can see, even in the best location that he has on his property it is still getting significant shading. He said that is at 5:00 and one of the reasons he was late, he took this right before he left tonight at a quarter till and you can see the real time.

Mr. Gutoskey said the question he has is where you have taken this picture, where it is relevant to where we are looking at on that map.

Mr. Ramsey referred to the aerial view and said he is standing right here and by the way this stuff here is all gone.

Mr. Gutoskey asked which way is this facing, is this facing south.

Mr. Ramsey said yes, it is facing south.

Mr. Gutoskey said you are just to this side of the driveway.

Mr. Ramsey said he is looking down, this is the location here where you are requesting me to put them, he is looking right where you told him to put them and this is the location that he requests to have them, ideally it would be nice to move them back 10', he didn't want to be too greedy and only get the variance approved and he also went ahead and did all of the surveyor work. He said this is his dream and he is talking to his community and friends.

Mr. Gutoskey asked if 70' is the length.

Ms. O'Neill said you have to have two 35' to change the configuration if she is not mistaken.

Mr. Ramsey said you are correct. He said again, you break them up and part of the panels would be over here and the other panels would be here, they should be in this line right here so this panel would be okay but the other 35' would be in the shade and he doesn't know if the board understands this analogy but it is like a chain, if you've got one small spot that is running electricity here because of shade the rest is not going through so it actually takes the whole 72' and diminishes it.

Mr. Gutoskey said the question he would have is would it help to push them a little bit to the sideline but maybe move them back a little bit to get away from that.

Mr. Ramsey asked Mr. Gutoskey if he looked at the picture of the shading.

Mr. Gutoskey said yes.

Mr. Gutoskey said remember when we were scaling it out. He said your surveyor located the edge of the driveway so it is like 100' from the property line to the edge of the driveway where you want to put the solar panels. He said he is scaling 100' to the property line.

Ms. O'Neill said she thinks Mr. Gutoskey suggested to move it slightly closer to the driveway if she remembers correctly.

Mr. Gutoskey said we went to a 35' setback and it would exactly work that is why we were suggesting stacking them but the question is what would be the minimal you could move them to the property line and then maybe move them back a little bit because most of them would be behind, you own the property behind.

Mr. Ramsey said this is the way that the panels need to be at, not here.

Mr. Gutoskey said he understands.

Mr. Ramsey said the closer to this area where the sun is shining the better so anything you move this way is detrimental, it makes a practical difficulty, it is very difficult to generate electricity in the shade, actually you can't, he doesn't know what to do to help you understand that.

Mr. Gutoskey asked what is the distance here from that to the drive to where this garden starts.

Mr. Ramsey said that is about 20'.

Mr. Gutoskey said when you look at the picture, the edge of the garden.

Mr. Ramsey said that is in the shade too.

Mr. Gutoskey said yes so even if you push it against the property line it would still be in the shade.

Mr. Ramsey said it will be but that is later in the day.

Mr. Barr asked in the winter will it be in the shade still.

Mr. Ramsey said some of it and that is the reason why he needs to move it back that way as far.

Mr. Barr said these look like broadleaf trees, the leaves will be gone in the winter.

Mr. Ramsey said so it will still be a shady problem, you are correct sir.

Mr. Barr said the leaves will be gone so that will limit the amount of shade it is going to cause.

Mr. Ramsey said any shading will reduce the output.

Mr. Barr said and you can't remove those trees.

Mr. Ramsey said he is removing about a tenth of an acre of trees as we speak, unless he cuts all the trees off of his property where it is real simple just to put it right there where it should be at, as far east as possible and he is not going against the lot line because he is trying to get your approval but if he was really wanting to get this out he would be actually asking to put it right on the lot line and the neighbors, they were here, have said he could put it on their property if he wants to, there is no practical difficulty and there are no neighbors that he is impacting, there is no reason why it can't go there.

Mr. Gutoskey asked about the date of the aerials.

Ms. Karen Endres, Zoning Inspector testified November 10, 2020 and she doesn't know if she told the board but prior to Mr. Ramsey consolidating the lots the setback would have been 15' because the lots were all non-conforming.

Mr. Gutoskey said if this is November you can see the sun is obviously lower in the sky, you can see how far back the shade is in that picture but when the sun is out it is going to be higher, your shade is going to be as far back if the sun is going to be higher.

Mr. Ramsey said it is a postage stamp area.

Mr. Gutoskey said what he is getting at if you are at the 20'.

Mr. Ramsey said he is asking for 10'.

Mr. Gutoskey said we gave it 20' off the rear.

Mr. Ramsey said he is actually going to put it right in here, he is going to take out his orchard of Apple trees, Cherry trees.

Mr. Gutoskey asked if he is going to hug the driveway.

Mr. Lamanna asked if he did a sun plot on this thing at all.

Mr. Daniel Quinlan said yes, that is what we did.

Mr. Lamanna said we know what the angles are.

Mr. Lamanna swore in Mr. Daniel Quinlan of Valley Solar Energy and he let the record reflect that Mr. Quinlan was duly sworn.

Mr. Quinlan testified that we have a couple of tools that we can use to measure shading and one is there is satellite imagery to show shading in areas and the other is an off-site that you can actually measure the direct shading of individual plots there and so as Mr. Barr had mentioned you will get less shading when the trees drop their leaves of course most of the shading is that south direction which is evergreens and really any shading for solar panels is the problem, one you are putting in solar panels to reduce cutting down trees and try to save some trees in reality. He said the other big thing is like Mr. Ramsey said, a very small 5% can essentially be 80% of production loss so it is pretty substantial to have a small amount of shading in the system, they try to optimize the system for shading but for it to work environmentally, financially and all of these pieces of the puzzle you have to kind of avoid as much shade as possible.

Mr. Gutoskey said at the last meeting we talked about two panels, is that possible.

Mr. Quinlan said that is what we kind of laid out but it is always possible but it is going to be the 35' that puts that literally in the back shaded area as you can see right now.

Mr. Gutoskey said if you can go back because of how the property jogs, if you were opposite in there, the parcel right there, if you were more in that area there.

Mr. Quinlan said but you would still then be 10', see that property line, he thinks that section is only 35' wide and with the array it is actually 35', it would almost be the exact width of that small jog in the property line so you would be into that corner of that property line and then the other problem we split on, we actually take up more area because the height of the rear panels is 9' so we need three times.

Mr. Gutoskey said what if you did something like this though, he referred to the site plan, if you set the panel on this line here then move the one up here.

Mr. Quinlan said like in the center but he has his driveway there and a building, he doesn't know if he would want to tear that building down.

Mr. Gutoskey said he thinks it would be to this side of the driveway, he is not sure what this building is here though.

Mr. Lamanna asked what the little white thing is, right there where your hand is.

Mr. Ramsey said that is a snowmobile trailer.

Mr. Lamanna said that is just sitting there.

Mr. Ramsey said all of this stuff is gone.

Mr. Lamanna asked how far that is from the back property line, do you know, from there to the back property line.

Mr. Gutoskey said that almost lines up with the one building there.

Mr. Quinlan said what he was saying about the distance so once you split the array you have to have three times the height of a structure to avoid shading on December 21st every year so if you have a tree that is 60' you have got to be 120', it could be like 80 some feet but really 120' would avoid all shading, you can have a little bit of shading in the winter months because the solar produces the least amount of energy in the winter months so you can have a small amount without impacting your overall annual production but when you ground mount them you have the ability to eliminate shading and eliminate energy loss, it is like taking these resources out of the ground, you want to get as much out of them as we can, that is kind of the mission to try to use them as efficiently as we can.

Mr. Ramsey said anywhere in this area is better, optimal from the lot line to here, he is only asking for 10', non-conforming as it was it would only 15', he is asking for an extra 5' because he actually tried to help get this through by combining his lots, having it surveyed, he is trying to do everything you guys want me to do, he even cleaned up the clutter that was around here because he wants Lorrie Benza, Jeff Markley and Chris Horn to all come and see it, he wants to show people in our community and he told Jeff that he needs to get some solars in our community like over at Geauga Lake and all he is asking for, help him out here, all he is asking for is for you to help him out, he is begging you actually.

Mr. Barr said the concern that we run into is your neighbor is okay with it.

Mr. Ramsey said they love it.

Mr. Barr said but your neighbor is not going to live there forever so we don't know what is going to happen, we have to try and protect now and in the future with any future neighbor.

Mr. Ramsey said it is up to the buyer on whether they want to buy the house or not so it is not an issue.

Mr. Barr said that is not how it works. He said if he were to buy the house and he doesn't like it so then he doesn't buy the house, you are losing out on somebody who could be buying that house because of these solar panels so that just doesn't work here.

Mr. Ramsey said and they understand that.

Mr. Lamanna said here is the moral of the story, the moral of the story is the adjacent property owner can't waive zoning because the factor that we consider, they cannot waive the zoning requirement on setbacks from their property, that is not within their power to do.

Ms. O'Neill said they were supportive.

Mr. Lamanna said they raised no objections and that is a factor that we would consider, they can't just say they don't care.

Ms. O'Neill said in real estate too, anybody who within some nebulous future point when those folks decide to sell their property she thinks most people who would be prospects for property are aware of zoning and b. you could object to a property for all kinds of reasons but it probably wouldn't have to do with zoning, it would do with they just didn't like what the neighbors had, if they have a barn do they raise pigs, there are all kinds of factors that could influence a real estate sale but she doesn't think that we make decisions based on potential future real estate sales.

Mr. Lamanna said the future real estate sales is not.

Mr. Barr said you are missing the whole point why we are here, we have to look at this into the future because this neighbor is okay with it doesn't mean that the next neighbor is okay, he is not saying he is against it, he is just telling you where we are coming from because you obviously are very passionate of what you want.

Mr. Ramsey said he is very passionate.

Mr. Barr said and he completely understands that but we are trying to ask questions and you keep going right back to the same, we are trying to gather information and he gets that.

Mr. Lamanna said everything you do affects the community as a whole and if we allow one person to do it then what happens is the next person comes along and even though there is technically different setbacks that may apply what happens is they come in and they say "well look you let them do this, why can't I do the same thing" and maybe the next time the neighbors are a little more ambivalent about it so it creates a bit of a problem for the board so we can't just say and there is a legal standard and as the variance gets bigger the hurdle you have to get over gets bigger so it is not oh okay, I jump over the fence and I am home free, the fence is this high for one variance, the fence gets bigger as you get closer to the property line.

Mr. Quinlan said he listened to the previous variance for the setback, a variance from 1977 when some of these things didn't apply, and you have solar becoming popular, in 2010 they did four systems a year, we do 40 – 50 systems a year now.

Mr. Lamanna said the Zoning Commission looked extensively at solar and there is a section now.

Mr. Quinlan said yes there is a section.

Mr. Lamanna said it is not like these things haven't been considered.

Mr. Quinlan said that is what he is saying, what are you considering what is, it is hard for him, you have EV chargers, you have a variance for EV chargers so nobody can put an EV charger outside their house and it is going to be difficult as you are learning what is going to be barriers to progress versus acceptable to society.

Mr. Lamanna said all of zoning in people's mind is a "barrier" to progress.

Mr. Quinlan said no it is not it is actually building value in a community, you look at cities and you are keeping the value of the community, you are keeping property values there so that is important and he thinks that when we build systems we try to be cognitive of that and to make sure that it is aesthetically going to fit, this is as far back on the property as you can possibly put it, you can say cut down all of the trees in the front yard and put it on the front roof of the house so there are a lot of worse ways to do this.

Mr. Lamanna said there is also and sometimes the case is you might have to cut down some trees for an acceptable spot, trim them down, make them smaller or whatever.

Mr. Barr said because no matter what with these trees the output of your solar panel is going to go down every year as the trees in the front continue to grow up.

Mr. Quinlan said these are mature trees, these are not like.

Mr. Barr said yes but they still could grow a foot a year or two feet a year.

Mr. Quinlan said that is part of the services, we usually have customers that do tree trimming, just taking off part of the tree over time but the ideal situation is to place it where the trees don't become a factor and then there are a lot of ways to handle this, he thinks it is probably best to say what are the real problems with it, what are the solar panels themselves, what is the aesthetic degradation to encroaching on a property line.

Mr. Barr said he can tell you that aesthetically, have you been by our intermediate school Kenston.

Mr. Quinlan said no.

Mr. Barr said they put solar panels right in the front yard, right in front of the school between the building and the sidewalk, it is about maybe 100' from the building to the sidewalk and they filled it with three rows of panels, now you say it is beautiful.

Mr. Ramsey said yes he does.

Mr. Barr said you are not a student on the inside looking out the window.

Mr. Ramsey said he is at that school more than you have ever been.

Mr. Barr said watch what you say.

Mr. Ramsey said he has been there since his daughter was three over here.

Mr. Barr said you do remember my occupation right.

Mr. Ramsey said he doesn't know.

Mr. Barr said he has spoken to you many times at the school, he is a teacher, he taught in that building.

Mr. Ramsey said you know he is very active in the school.

Mr. Barr said he understands that.

Mr. Ramsey said we both are.

Mr. Barr said he has spoken to the teachers that have been in that room that look out at the back of those solar panels and they are not real happy.

Mr. Ramsey asked aren't they.

Mr. Quinlan asked if they had to go through zoning for that though.

Mr. Barr said that he can't speak to that.

Ms. Endres said they are a political subdivision.

Mr. Barr said you can't ask a blanket question of how can that hurt somebody's aesthetics, you can't.

Mr. Quinlan said he was trying to find out if it was subjective or not.

Mr. DeWater asked if a solar panel study was done and you are saying 35' from the property line won't work it has to be the 10.45', here it has to be something in between where you still get the optimal use.

Mr. Ramsey said closer to the lot line, like zero feet off the lot line.

Mr. Quinlan said in trying to, you can soften it, he doesn't know, he has seen a number of different solutions right where you find fencing on the property line, screening, we see a lot with commercial projects where the project is screened so it is not in view of the neighbors so 10' if the fence isn't 12' high, of course it has to be further than 6' we can be that east side, it is not going to shade as much because once you get past 10:00 in the morning you start to get so if you apply some screening maybe to that property line, that is why he asks the question, if it is the visual aspect that we are worried about then a screening might be a solution, otherwise if it is something more structurally that we are worried about then he guesses we have to look at that as what options we have.

Mr. Barr said it is not just the visual it has also got to be a necessity, there are other options it is not like, if he wanted to put a building in and he had land that looked like this and he wanted to put a building here well he would have to remove those trees and level that dirt out to put a building there, it is a structure so here all you are doing is removing trees so that you can get sunlight, that is something that can be done, it is not something you are hindered from because there is a big rock formation.

Mr. Ramsey said the practical difficulty is still there because it is not enough, he would have to take all of the trees back in here. He referred to the aerial photo and explained the location of the trees. He said he is trying to make it understandable. He said he knows you are negative on solar.

Mr. Barr said no, he is not, time out, don't assume you know what he thinks, you have already made assumptions and have been proven wrong.

Mr. Ramsey said he apologizes.

Mr. Barr said he can understand your passion and he loves your passion, that is great, but you have to understand where we are coming from, we are put in this position for just this reason to take a look at it in black and white and nobody doesn't want you to have this and if you put it where we ask you to put it it is still going to work it is just not going to work optimately, right.

Mr. Ramsey said it won't work at all probably.

Mr. Quinlan said it is the analogy of the trees and it is again back to the individual's perspective of what is valuable and what is easy to do and what is kind of acceptable to say let's cut down all of these trees to put solar and he thinks in the world we don't want to cut down forest for solar.

Mr. Barr said if they were going to put in a solar farm they wouldn't go into the middle of the woods and say they were going to put a solar farm here.

Mr. Ramsey said exactly.

Mr. Quinlan said and that is what he is trying to do.

Mr. Barr said he is trying to put a solar farm in the middle of a woods.

Mr. Quinlan said he is trying to put it in the open space so he is here to try to help find that acceptable place in between there that might be.

Mr. DeWater asked 25' off the line.

Mr. Lamanna asked what are we looking at as possible configurations for this array, one is a long skinny array, right, like dimensionally.

Mr. Quinlan said dimensionally he thinks it looks worse when you are going to start splitting your array up, you could put single ones down that whole side, he doesn't think aesthetically they look as nice as a single array so we don't want to design a system that looks worse if we are trying to work on aesthetics, if that is the problem you are trying to solve.

Mr. Lamanna said right now we have 70' x 35'.

Mr. Quinlan said it is only about 13' wide.

Mr. Lamanna said so 70' x 13'.

Mr. Quinlan said yes.

Mr. Lamanna said what the board is looking at is it possible to break that up into, instead of this way, cut it in half and stagger it.

Mr. Quinlan asked Mr. Ramsey if he has the drawing of that version.

Mr. Ramsey said yes but.

Mr. Quinlan said 35' puts us, that little green shed he thinks the edge of that green shed, if you are 35' at that blue property line to the north.

Mr. Ramsey said anything in this area even over here is in good shape.

Mr. Quinlan said he thinks from the property line to the corner of the lot is 35'.

Mr. Gutoskey said that jog there is 35'.

Mr. Quinlan said so you have to start there, if you split it the rear array as you can see the trees, the shading isn't touching it but now we have to be almost 50' to the front side of the front array which is literally where he has actually started to remove trees and he would have to remove another basically 50' of trees to the front.

Mr. Lamanna said if you've got 70' x 13' wouldn't it roughly be 26'.

Mr. Quinlan said you have to space between.

Mr. Lamanna said another row in there.

Mr. Quinlan said with 30' between them so if you have to have a 12 x 30 and 50 some feet total by the time you are done, instead of an area that is 12 x 70 you end up going with an area that is 35 x 50.

Mr. Ramsey said if he may gentlemen, remind you, this is at 5:45 PM and you can see the sun is all the way across, even the good panel that is up here is going to be in the shade no matter where he puts them.

Mr. Lamanna said this is a nice picture unfortunately it is very hard for him, without seeing it, superimposed to know exactly where these points in here are, he can't translate this to a certain map, that is the problem.

Mr. Ramsey said this is the optimal place for putting them and you are telling him to put them this way and he is trying to help you understand it, even putting them here he is still getting significant shading and the amount of times he is able to produce electricity, it is reduced.

Mr. Lamanna asked about the driveway.

Mr. Ramsey said even putting them in the optimal spot he is reduced so it is the time of day.

Mr. Quinlan said this time of year you are getting sun from 7:00 or 6:00 AM to 9 PM, he would have power from 6:00 AM to 9:00 PM.

Mr. DeWater said but your most charging time is 10 to 2.

Mr. Quinlan said 9 to 3.

Mr. DeWater said at 5:00 it is kind of irrelevant, he knows you are trying to get charging.

Mr. Ramsey said at 2:45 in the afternoon it is in the shade.

Mr. Quinlan said he can bring a shading study and the board can look at that but he is saying what would be the best for these types of systems, he thinks ideally trying to reduce all of the resources required to do something like this and affect the aesthetics for the community, we are trying to be cautious of that and also make sure the system works. He said you can do a lot of things to make it look nice for the aesthetics from the neighbor's side, the back side is not as aesthetically pleasing as the front side of the panels of course, some people could care less and say the front side is just as bad.

Mr. DeWater asked what is your closest distance to the sideline before it affects its usability, is it 10-1/2', is it 25'.

Mr. Quinlan said he would say 15' would be the max that you would want to be or the minimum, whatever you want to call that, if you would be in the 15 he thinks that it gets into that shading but it is not as detrimental, Mr. Ramsey would have to do a little more work on the trees.

Mr. Ramsey said you can see at this time of night now, he is begging for as close to the lot line, he would love to be allowed to put it on the lot line.

Mr. Barr said we can't, it is not practical.

Mr. Ramsey said he is trying to make it look nice, that is the most important, he has people who want to come and see it so he doesn't want to do something hokey just to get around it.

Mr. Lamanna asked can somebody tell us how far over the shading comes, this picture does me no good because he needs to be able to translate it to the map. He said we are just trying to figure out, he has a few this way and a few this way and he can't meld them together.

Mr. Gutoskey said if we had something from your consultant that could show us on a map relative to the property line he thinks that would help.

Mr. Lamanna asked where does the line end here, he referred to the aerial photo.

Mr. Ramsey said anything over here is going to be shaded.

Mr. Gutoskey said the problem we have is we don't have enough information.

Mr. Quinlan said he understands and he can show you what the percentage of shading that you are saying would be where. He said he can do a shading analysis.

Mr. Gutoskey said if we had something from him, from his expert, that could show us on the drawing where the shading is then we can make an educated decision.

Mr. Barr said after he has removed some trees we can see the high efficiency, somewhat efficient, least efficient, if there was some way for us to see where those barriers were.

Mr. Gutoskey said then we could make an educated decision.

Mr. Barr said because right now we are looking at one person's needs and it doesn't really jive right now.

Mr. Quinlan said they have tooling that can basically measure the exact shade for golf courses so that is literally what they use, a digital tool that measures the actual shade on the green so they can move trees and trim trees.

Mr. Gutoskey said if you look at the drawing at 10' off the property line, 20', 30' or 75' and just kind of give us an idea how the efficiency is affected. He said as far as the minutes, they can approve the minutes with the exception and have him come back.

Mr. Lamanna said right now what he asked for originally would have been in the shade.

Mr. Ramsey said it was all the more reason to put it there because the farther you come this way.

Mr. Lamanna said we were trying to move it that way as far as we could because it seems like if you go to the right, the shading, you get a larger area from that blue line forward that is not shaded. He said to the best of the information we have before us right now, that is the problem.

Ms. O'Neill said this is not a current photo.

Mr. Quinlan said because he has done some clearing.

Mr. Ramsey referred to the aerial photo and said he had to remove these trees through here as you saw in an old photograph it is shaded and he showed you again, it is a practical difficulty, it reduces it.

Mr. Quinlan said he thinks what Mr. Ramsey is saying is the 35' from the line is basically all of the unshaded area of the property essentially, his entire yard lot is essentially trees so that 35' from the line is literally the unshaded area.

The board discussed the setbacks.

Mr. Lamanna said if you take the 60 so you have 94 so if you put a 70' array there you are down to 24, even 10' off the property line you are down to 14 and you are going to be bumping into the building.

Mr. Quinlan said on the back side of the property line.

Mr. Lamanna said you will be bumping into the building but as you move forward, that is as far over you are and it seems to him it looks like you are getting right into the shaded area even with that array. He said this is the problem we are having, we are looking at it and saying what you are proposing is already getting way over here, where we move it right and forward.

Mr. Barr said if it doesn't work and you get that shading and it shuts down everything else.

Mr. Quinlan said the rear array if you are at where that green shed is, it is not actually shaded but then when you come, so that was keeping it as a single array when it is back on that whatever that 20'.

Mr. Gutoskey said he got a variance for 20' on that back line.

Mr. Quinlan said so keeping that array there you have that more open space there but when you split it that farther array has to come all the way forward so that is kind of the area that is going to make the biggest impact.

Mr. Gutoskey said he would look at it like doing it as a single array and then double it to see how the shading is and bring that back to us to look at.

Mr. Barr said we need more information.

Mr. Ramsey asked if it is here and it is in an optimal place and any other place that you put it causes a practical difficulty why wouldn't it be best to put it where it would have less environmental problems because removing trees is not good environmentally but he has already done these trees and it is helping a little bit.

Mr. Barr said the problem is removing a tree because if you wanted to build this on that back lot you could bring a crew in and clear cut that and there is no practical difficulty with that, removing a tree is not a practical difficulty, it is not optimum but it is not what he would classify as a practical difficulty and we are trying to help you, we are trying to work with you that is why we are asking questions.

Mr. Ramsey said his leach field is here, he couldn't put it here if he removed a tree.

Mr. Lamanna said he was talking about back there.

Mr. Barr said way back.

Mr. Gutoskey said he doesn't think he would have enough side area.

Mr. Barr said there is no practical difficulty, there is not a ravine here, there is not an elevation, there is not limestone, this is the most convenient.

Mr. Ramsey said there is not enough clearance from the lot line that is why he added this and did all of that work and he even moved a trailer.

Mr. Barr said he understands how hard you are working here.

Mr. Ramsey asked what else do you want him to do.

Mr. DeWater said he would recommend that you let your expert bring back further clarifying information for the next meeting so it can be reviewed.

Mr. Lamanna said we need some information to show on the plot plan that says okay, we've looked at this and these areas are unsuitable because of shading and we want to somewhat know where is the shading coming from.

Mr. Barr said because none of this is 100% optimal, is that correct, some of these are shaded at some point, if you said where is the best location, none of them would be on his plan, it would be in an empty hayfield across the street so this part is 80%, if we build here, 10' away this is going to give us 80%, if you go over to 20' away, that gives us 70% and so on so we know where that is at.

Mr. Quinlan said he understands what you are trying to come up with.

Mr. Barr said we need more information.

Mr. Quinlan said for moving that and he thinks that is prudent.

Mr. Lamanna said it is very hard for us to tell, how far from that purple jog there, that point, how far do you go down before you go into a dead area and how far coming the other way can you go before you come into a dead area then we have something to base a decision on, we would know here is the area because somewhere over here, somewhere over right there is good and then at some point it starts not to be so good and it seems to him that you would have to also look at if you reach this point this is where you start to have a problem but what is causing that problem, so if the case is we take down one tree and that removes a significant shaded area where we could put the panels up then you've got a basis of saying alright but if you get to a point where you say well now we have to cut down half of the forest trees, that is a different story so we are trying to make a decision with half of the facts.

Mr. Barr said we don't want you to clear cut your front yard, that is not what we want but we have to give you where we are coming from on this.

Mr. Ramsey asked can you help him understand.

Mr. Gutoskey said we need a drawing from an expert that shows us so we can make a decision, that is all we need.

Mr. Lamanna said we also want a good understanding of technically what options there are for arrays, it seems to him that the two that we need to look at are the long skinny one he would characterize it or is there an option to make it more rectangular, more square rather.

Mr. Quinlan said we try to keep it as aesthetic as possible, you don't want bits of solar everywhere.

Mr. Lamanna said no, that is what he is saying, it is sort of this strip or it is sort of like a box.

Mr. Quinlan said yes, it would get so high in the back but by the time you stack the panels, they are 30 degree angles so 30 degrees for every foot you are gaining almost 8".

Mr. Lamanna said if we go from this to this in the back half of the lot.

Mr. DeWater said that is the information you need to provide, if we use this panel here is the cut sheet that shows us, that is the information we need.

Mr. Lamanna said yes we would have to see, nobody ever brought up the issue of the fact you have the front panel and you don't want the front panel shading the next panel and he doesn't know what angle you calculate that at.

Mr. Quinlan said 30 degrees.

Mr. Barr said and then you have your setback.

Mr. Lamanna said that obviously affects that.

Mr. Quinlan said your latitude and it is the height difference.

Mr. Lamanna said the sun in December.

Mr. Quinlan said December is your lowest.

Mr. Lamanna said 40, 60, 30, it is the latitude of the tropical Capricorn added to our latitude and subtract that sum from 90 and you've got the apparent horizon angle of the sun.

Mr. Quinlan said we have modeling that does this and so we can tell at what point of the year and time of day from any point on the ground where the shade is and we can certainly do that and he thinks Mr. Ramsey has been doing this for six months so he thinks he is just at a point he is trying to get it done this year, June 21st is the longest day of the year so you start losing energy as you go further into the year.

Mr. Ramsey said he thinks they are missing the point where no matter how you restructure it it is going to be in the shade, there is only one area, the outdoor area is actually over here.

Mr. Lamanna said then your neighbors should put in one.

Mr. Ramsey said they want to do this next. He asked where is he impacting any harm.

Mr. Quinlan said if he understands what you are asking is that if we show them the shading profiles they may give you that space you are looking for.

Mr. Lamanna said and understand, we don't have to demonstrate the harm, you have to demonstrate the practical difficulty, the burden of proof is on your side, not on the board. He said we are trying to help you here so that when we do these things we want to do them on a sound basis. He said you unfortunately are the first person that has really come before us for us to look at this so we have no history to draw upon to say okay we have gone through a couple of these and we know how it works and we will get a feel for it, we will get a feel for how things are going to come out.

Mr. Gutoskey said when zoning gets an application they are probably going to ask for this information.

Mr. Quinlan said they have been doing this since 2006 so he has lived through, they have helped communities, he has been to many zoning meetings with trying to set regulations that were just kind of just guessing at what really so it is a learning curve and eventually it is just more popular now and hopefully you will see more and then like you said if we can help you.

Mr. Lamanna said a lot of these things are people are out there saying they don't want to do this, they don't want to do that, it is like, you have trees, they keep on growing and sometimes they grow a lot bigger than you think. He said his neighbor behind him planted Poplar trees, they normally don't grow that tall, they are 100' tall now, they normally don't live as long as these are, these things have been in there 50 years, they are still alive, now they are starting to come down because they are not very strong and you get a really bad wind and suddenly you have a 90' tree coming at your house. He said these are kinds of things that people have to think about and they don't want to cut this tree down but you may have to end up having to cut that tree down in five years anyway because it grows enough that now all of a sudden it is shading your array so when people come in and say you don't want to do this and you don't want to do that, part of is okay you say you don't want to do that today but if in five years you are going to have to cut it down anyway, if you do what you want to do, then we have to consider that too so it is a process for us too, we know some facts, we ask some questions, sometimes the applicant doesn't know all of the answers that is why it is helpful to have you (Mr. Quinlan) here because things like maybe the shading of the array itself and it has some impact on what this thing looks like.

Mr. Quinlan said yes and we are here.

Mr. Barr said we need to gather as much information as we can before we make a decision because we can't just willy nilly say yes to everything.

Mr. Lamanna said we spent a lot of time working on this thing and we are also looking at this thing and we don't want somebody to put these things in and then it is really not working well and then they want to come back and do something entirely different and move it somewhere else and they already made the investment in the equipment and now they are moaning and groaning and saying they want to move it to this area because it is not working over here so and we want it right, we don't want it that suddenly it doesn't work and you've got solar arrays sitting there and it is sitting there not working and just being an eyesore.

Mr. Lamanna said the board will hold this decision until next month.

Mr. Gutoskey said we can approve the minutes except for this one.

Mr. Lamanna said we want to make sure we get this right. He said the earlier you can get this information in to the zoning inspector, that would be helpful because then we might get a chance to look at it and if we have any further observations or questions we can get it back to you even before the next meeting.

Mr. Ramsey thanked the board.

MINUTES

Mr. Lamanna moved with respect to the meeting minutes of May 19, 2022 that the board accept such minutes except for those related to the motion on BZA 2022-22 since that case is effectively being reopened for a further hearing at the next regularly scheduled meeting to be held July 21, 2022.

Mr. Gutoskey seconded the motion.

Vote: Mr. Barr, aye; Mr. DeWater, aye; Mr. Gutoskey, aye; Mr. Lamanna, aye; Ms. O'Neill, aye.

APPLICATIONS FOR NEXT MONTH

Application 2022-22 by Rod Ramsey for property at 8654 Taylor May Road - Continuance

The applicant is requesting area variance(s) for the purpose of installing ground mounted solar panels. The property is located in a R-3A District.

Application 2022-23 by Justin Henry for property at 17896 Kingswood Drive - Continuance

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

Application 2022-26 by Jackie Lockhart for property at 17172 Cats Den Road - Continuance

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

Application 2022-28 by Geneva McKinley for property at 18865 Giles Road

The applicant is requesting area variance(s) for the purpose of installing signage for Buffalo Wild Wings. The property is located in the MUP District.

Application 2022-29 by Geneva McKinley for property at 18865 Giles Road

The applicant is requesting area variance(s) for the purpose of installing signage for Buffalo Wild Wings. The property is located in the MUP District.

Application 2022-30 by Geneva McKinley for property at 18865 Giles Road

The applicant is requesting area variance(s) for the purpose of installing signage for Buffalo Wild Wings. The property is located in the MUP District.

Application 2022-31 by Apex Pinnacle Services LLC for property at PP# 02-292850, PP# 02-292860, PP# 02-111880 Washington Street

The applicant is requesting area variance(s) for the purpose of installing signage for the proposed Aldi grocery store. The property is located in a CB District.

Application 2022-32 by Apex Pinnacle Services LLC for property at PP# 02-292850, PP# 02-292860, PP# 02-111880 Washington Street

The applicant is requesting area variance(s) for the purpose of installing signage for the proposed Aldi grocery store. The property is located in a CB District.

The Bainbridge Township Board of Zoning Appeals set a public hearing on the above applications for July 21, 2022 at 7:00 P.M. at the Bainbridge Township Community Hall, 17826 Chillicothe Road, Bainbridge Township, Ohio and unanimously resolved to request the Bainbridge Township Board of Trustees to issue a purchase order for legal advertising.

Since there was no further business, the meeting was adjourned at 8:55 P.M.

Respectfully submitted,

Brent Barr, Alternate
Ted DeWater
Joseph Gutoskey
Michael Lamanna, Chairman
Todd Lewis, Vice Chairman
Lori O'Neill, Alternate
Emeil Soryal

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

Date: July 21, 2022