

Bainbridge Township, Ohio
Board of Zoning Appeals
November 17, 2022

Pursuant to notice by publication and ordinary mail, the public hearing was called to order at 7:06 P.M. by Mr. Michael Lamanna, Chairman. Members present were Mr. Ted DeWater; Mr. Joseph Gutoskey; Mr. Todd Lewis and Mr. Emeil Soryal. Mr. Steven Averill, Zoning Inspector was present.

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 Mr. Steven Averill, Zoning Inspector and he let the record reflect that Mr. Averill was duly sworn.

Application 2022-45 by Archer Sign Corporation/Matt VerBeck for property at 8575 Tanglewood Square – Unit F-3

The applicant is requesting area variance(s) for the purpose of installing a second wall sign for Goodwill. The property is located in a CB District.

Mr. Jerry Archer of Archer Sign Corporation was present to represent this application.

Mr. Lamanna stated that the board has one small procedural problem here and that is that you need to really have a letter of authorization from the owner of the property, we have a form for that and we would be happy to get you that form. He said what the board will do, since we've got two other pieces of this, we will hear the application but whatever ruling we make will be contingent upon you getting that signed authorization from the owner of the property. He said we can show you one here for the other two applications that have been signed. He said people get confused between the permitting process and when you come here, when you come here it is a different legal requirement because when we grant the variance that variance goes with the property and there may be limitations and other things placed on that variance that affect the property owner so we have to have the property owner here because he is the one.

Mr. Archer said he does this all of the time and asked if there is a special form.

Mr. Lewis asked who Maureen Ater is.

Mr. Archer said she is the owner, operator of Goodwill, not the actual property owner.

Mr. Lewis said okay, so as the tenant she authorized you to speak in her behalf but not as the property owner.

Mr. Archer said she was supposed to be here too but he thinks she has COVID.

Mr. Lamanna swore in Mr. Jerry Archer and he let the record reflect that Mr. Archer was duly sworn.

Mr. Archer thanked the board for allowing him to go ahead and present tonight. He testified that basically it is kind of cut and dried really, they are moving into the Tanglewood plaza, actually they are in there. He said the previous tenant, the dry cleaner had two signs for visibility, the uniqueness of that building on that property, the current other tenants in that building, the bank has two signs, Verizon has two signs. He said the bank is similar to us, it has a parking lot facing sign and then they have an end-cap sign to catch people that came off the main drive. He said they kind of flipped that a little bit, we are on the end-cap on the other side catching the driveway and the road entrance and then also they want to put it on the inner of the lot since they are not seen on the road, they are on the other end and they want to move the sign right there, yes, not move it they want to add a sign there (he referred to the displayed aerial). He said their understanding is their communication with the zoning folks here the previous tenant had a variance.

Mr. Lewis said there is this, that is the ground sign and that is the other face of the building. He asked Mr. Archer if he was talking about putting the second sign on the inside or on the rear of the building.

Mr. Archer said inside, right there, not on the back. He said there is not a lot of visibility with those trees growing up there.

Mr. Lewis said so you've got the one side up already in the peak of the end of the building.

Mr. Archer said yes, that is to code.

Mr. Lewis said and you also have a ground sign on the marquee out on Chillicothe Road.

Mr. Archer said it is a little tiny one.

Mr. Lewis said he understands but it is a sign, that is sign number two, also before us you are talking about a bunch of window signs that also say Goodwill on them.

Mr. Archer said that is totally separate.

Mr. Lewis said he understands but he looks at the property so we are now up to one, two, adding a third on the building and then at least two more in windows, we are up to five signs so if he looks at something as a whole rather than, he realizes we have two different sign vendors here doing two different things but he wants to keep it sewn together so it makes sense. He asked what the square footage is.

Mr. Archer said it says 33 but it is actually 30.7 the way someone in your office calculated it.

Mr. Lewis said there are going to be a lot of signs on this unit with window signs that say Goodwill, the two Goodwills on the front faces on each corner of the building plus the ground sign out on Rt. 306 on the marquee out there, we are up to five signs.

Mr. Archer said we consider that more of a directional sign at the street, there are so many tenants on there.

Mr. Soryal asked if this is drawn to scale.

Mr. Archer said not really it can get a little bit out of proportion, the measurements are correct and it fits in there, it is just a little bit out of proportion.

Mr. Soryal said when we convert it to this one here, this is the site it is going on right.

Mr. Archer replied yes.

Mr. Soryal said you see the Charter Bank here.

Mr. Archer said yes.

The board discussed the size of the sign relative to the building.

Mr. Gutoskey asked about the lights.

Mr. Archer said those are brackets, they are not lights.

Mr. Soryal said if you go to the other two applications after that it shows the other two signs on the same façade.

Mr. Steven Averill, Zoning Inspector testified the frontage of this unit is 41' and if he was to not put the sign on the east side of the building and just on the north he would have been allowed to put a 51.25 sq. ft. sign over there because Ms. Endres wrote this as a second sign variance but she didn't calculate the frontage of the unit into it so the square footage is relevant to the second sign. He said that was his concern too, the proportionate so the unit is 41' wide.

Mr. Lamanna said on this side it is 41'.

Mr. Averill said facing the north, facing the plaza.

Mr. Gutoskey said into the plaza.

Mr. Lamanna said and the other side is bigger.

Mr. Averill said much bigger, 60'.

Mr. Lamanna said he gets 75' on that side.

Mr. Averill said correct, it is 41' frontage for the proposed sign.

Mr. Soryal asked Mr. Averill to go to the application for 2022-47, there is a picture of the side of the building where the sign is going that has the Verizon and the Charter One sign on the same side.

Mr. Gutoskey said it is the third application.

Mr. Soryal said it is for the window signs.

Mr. Gutoskey said it has a picture for the whole front of the building.

Mr. Soryal said but you don't know the measurement between these lights.

Mr. Archer said those aren't lights, those are brackets and added that those were existing from the previous.

Mr. Soryal said from the old sign.

Mr. Archer said yes.

Mr. Lamanna said the one thing he doesn't like in principal about this is somebody comes in and they put up a sign that is allowable then they come back and they say now they want a second sign and they really should have come in here at the same time.

Mr. Archer said they couldn't get in.

Mr. Lamanna said the board might have said fine, you can put up two signs but they've got to be the same size.

Mr. Archer said this was suggested by your office here to get the one permit and then come back for the variance, that is typically what you do.

Mr. Lamanna said that is the risky aspect of it.

Mr. Archer said but he doesn't know that and the girl that was working was sick, he doesn't know if anybody here remembers that so she was just trying to be helpful, this is the way she would do it, she would get the permit for this sign, you can open and then come back for the variance, if she would had said no, they would have waited.

Mr. Lamanna said here is the problem, what happens is somebody is trying to be helpful because what they are saying is you've got two choices, either you put up nothing and come for a variance in two months or you put up your sign and then come for a variance.

Mr. Archer said he has to go by what he was suggested because they do this all over the place.

Mr. Lamanna said you got something for that, you got your sign up for your opening.

Mr. Averill said also the sign you are allowed is where the main entrance is it claims that to be where you put your sign, so this is the extra sign.

Mr. Lamanna said but the risk of coming in and asking for an extra sign is, what you've done is you've taken away the ability for the board to say we will allow this but we are going to allow it within the 75 sq. ft. and now you have only left yourself 8 sq. ft. so now you can have a little tiny sign.

Mr. Archer said he doesn't think that was the intent, if our intent was to do it that way our intent was to follow what we were advised to do so we could get along.

Mr. Lamanna said he understands but he thinks you got that advice because somebody wanted to have a sign up for the opening and if they didn't go that way they weren't going to get that result so what happened is you got your sign put up.

Mr. Archer said we could have put a banner up if something happened like that.

Mr. Lewis said they didn't make that choice so he thinks from our Chair's point with two surfaces or two faces of the building and the lengths of those in feet there would have been a cap on the amount of total square footage and great you want a second sign but still here is your cap, you decide how big you want to make your signs and where you want to put them but unfortunately you burned up 90% of your allotment on the first sign and we've got window signs on top of it.

Mr. Lamanna said another problem is these are separate applications and they potentially impact upon one another because conceivably once we act on this one the fact that we act on this one becomes a matter of consideration in the other one.

Mr. Lewis said yes.

Mr. Lamanna said and part of the consideration may be they want to have some identification on this side of the building which we can understand but how many bites of the apple do you get so you leave the board with somewhat of a difficult position, you take away our flexibility to come up with a supportable action because you put this other sign up, we probably could have dealt with this pretty easily but now you face a more difficult problem.

Mr. Soryal said help him understand, this is the main entrance now, the one that doesn't have a sign above it.

Mr. Archer said no, the main entrance is up farther.

Mr. Soryal said shouldn't the sign be over the working door.

Mr. Archer said he can't answer that, he doesn't know the answer to that.

Mr. Soryal said so if that door is not going to be active at all you may not really need a sign because people will come to that door.

Mr. Archer said they need a sign because somebody coming through the parking lot will know that they are down there.

Mr. Soryal said it might be an 8 sq. ft. sign.

Mr. Gutoskey said 8' long by 1' high and you have the charts for how far away to read a sign, as small as that parking lot is you can read the sign.

Mr. Archer said you are not really going to get all of these on a 1' tall sign, it has to say Donation Center & Computer Store, that is how the licensing is, that is why it is 36" tall so we can read it, it has to say Computer Store on there for some reason is what they told him, he doesn't know if it is your zoning or something.

Mr. Gutoskey said it wasn't ours.

Mr. Lamanna said as long as it is on there, it probably doesn't say how big it has to be, does it say it has to be 20% of the size of the other one.

Mr. Lewis said his letter visibility chart says that at 100' away your letter height needs to be 3" to be readable, that is at 100' away.

Mr. Archer said he doesn't know if he could see that.

Mr. Lewis said he didn't write the chart.

Mr. Soryal asked Mr. Archer if he had any other measurements.

Mr. Archer said no, he even measured that when we started this process but he doesn't have that with him.

Mr. Soryal said it is going to make a big difference on whether it is going to fit within these lines proportionately.

Mr. Archer said it is going to fit between the top of that and that for sure.

Mr. Soryal said but not inside that square, it is within the lines.

Mr. Archer said he doesn't think that it fits inside that part.

Mr. Soryal said he didn't think so either but he doesn't know how far off it is, if it is another inch then you can slide it down an inch, it is no big deal but if it is at the sign then he understands.

Mr. Lewis said that would be it, 3 by 11 is 33. He asked how much they burned on the front sign.

Mr. Lamanna said 67.

Mr. Lewis said 67 and 33 makes it 100.

Mr. Soryal asked if we have exceptions for corner lots.

Mr. Gutoskey said we used to for corner lots.

Mr. Lamanna said again he thinks what the board would do is look at the situation and see whether it makes sense to have two signs but when we do that we would apportion.

Mr. Gutoskey said the one in the parking lot is going to be more informational but the one on the east side, the bigger one is going to be the one, you can probably see it from Rt. 422.

Mr. Lamanna said yes you can.

Mr. Lewis said he hasn't seen their window graphic proposal for any of the windows on that side, he saw them on each side of the main entrance door, the left and right windows but he has no idea. He said there is flexibility there with the 25%, you've got six windows you could plaster the word Goodwill and then whatever, he is not a graphic designer.

Mr. Lamanna said if you took a third off of each side you end up with 44% of it so that would get them down to about 12 sq. ft. so then they would only be about 5 sq. ft. over.

Mr. Soryal asked if all of that information is considered the logo, is there an option of possibly taking this information and put it on the side of the Goodwill or does it have to be underneath.

Mr. Archer said it could be one line.

Mr. Soryal said so the whole thing could be shorter or longer.

Mr. Archer said yes.

Mr. Lamanna said the Verizon sign is certainly pretty small. He said something like 2' by 7.5'.

Mr. Soryal said he wonders what the Charter bank sign size is.

Mr. Lamanna said that is going away though.

Mr. Lewis said we still need to get the property owner's approval on anything anyway. He said it is a concern because whatever you may grant in a form of a variance on this face in this section he's got other tenants in other units down there and we don't have the property owner's opinion of what he is willing to agree to for one that may create some challenges with others.

Mr. Soryal said especially if the bank is leaving and somebody else is coming in.

Mr. Lewis said that is it, retail space has changed.

Mr. Lamanna said that Verizon sign, it is not 3' tall.

Mr. Lewis said no.

Mr. Lamanna said it is only 2' tall.

Mr. Soryal said he would like to know what the square size is here, what these lines measure and that would be a good indication of what that is.

Mr. Lamanna said he bets they are 3'. He said it is not as wide as a single door. He asked what the awning size is, almost 9' or 10'.

Mr. Archer said the door is probably 6' so it is 8' or 7.5'. He said he probably has the measurements on those two windows right there.

Mr. Averill said 7.9 and 1.6.

Mr. Lamanna said how about 7.5 by 2.

Mr. Lewis said that is pretty spot on.

Mr. Lamanna said he thinks the sign is proportional and shrink a third in each direction. He said in looking at the other signs here he thinks if it is scaled down to two-thirds of what you've got here so it would be 2' on the one side and 7-1/3 on the other.

Mr. Soryal said that Charter One bank is a little bigger than the Verizon sign.

Mr. Lamanna said then you've got 15 sq. ft. so you only need 7' or 8' over the total.

Mr. Soryal asked if Charter One has two signs.

Mr. Archer said yes.

Mr. Gutoskey said they have one on the side too, you can see it on that one area.

Mr. Lamanna said two signs could easily fit within the total allotted and we've got the whole side there with the drive-thru, they got the 75'

Mr. Lewis asked Mr. Lamanna if he is thinking 7.5' by 2'.

Mr. Lamanna said yes, he thinks it gets it down to a similar scale of the other signs. He said if he can make it proportional, if you take it down a third on each side it is going to stay in the same proportion, all of these things will be in the same proportion and the same spacing as they are now.

Mr. Lewis said the sign will just be two-thirds the overall size of this with no change on the graphic proportions allowing 75 and they are at 67, 67 plus 15 is 82 so it puts them 7 over and then we can talk about the windows, the next application.

Mr. Archer said he is following 15 sq. ft.

Mr. Lamanna said we will scale this down by two-thirds of the size in each direction.

Mr. Archer said if it is 30 sq. ft. then two-thirds would be 20 sq. ft.

Mr. Lamanna said no you scale two-thirds on each side so you are two-thirds times two-thirds so it is four-ninths of the former area. He said the total area is less than half of what this one is. He said if you take a square and halve the side it is a quarter, what is left is only a quarter of the area of the next biggest square if you know your geometry.

Mr. Gutoskey said so you are thinking 7'4" x 2'.

Mr. Lamanna said it will be about 82 total or go to 83, don't squeeze it.

Mr. Gutoskey said it will be a total of 83 sq. ft.

Mr. Lamanna said yes a total of 83 sq. ft. He said the sign will be basically dimensionally shrunk in both directions so it will be 44.44% of the area of the prior sign.

The board discussed the proposed variance.

Mr. Archer said it is 2' by 7'4" and added that he will change that drawing.

Mr. Lamanna said Mr. Archer needs to get the authorization signed. He said the sign was reduced by 1/3 in each direction so essentially what that means is the sign will actually be 44% of the original sign area wise but it shrinks 1/3 in each direction, 2/3 of the length and 2/3 of the height and that ends up only being 44% of the area so you get a double benefit in terms of complying.

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

Motion BZA 2022-45 – Archer Signs – 8575 Tanglewood Square – Unit F-3

Mr. Lamanna moved to grant the applicant a variance for the purpose of installing a second wall sign.

1. The sign that was proposed will be reduced to 2' high by 7'4" wide resulting in about 14 sq. ft. which when added to the existing sign will be a little bit over 80 sq. ft. so the board will grant a variance for the second sign and for the total wall signage to 83 sq. ft. to cover that.

Based on the following findings of fact:

1. This is a corner lot and there are two sides where traffic could reasonably approach so adding a second wall sign is not unreasonable.
2. This proposed sign in scale will fit the architecture of the building and will be balanced on the building and will not create an unsightly situation or have a sign that is out of scale with the existing signage in the same area.
3. The board also notes the applicant, prior to going forward and this application being finally approved, will provide an appropriate authorization form satisfactory to the township based on a sample form from the owner of the shopping center.

Mr. Gutoskey seconded the motion.

Vote: Mr. DeWater, aye; Mr. Gutoskey, aye; Mr. Lamanna, aye; Mr. Lewis, aye; Mr. Soryal, aye.

Application 2022-46 by Mark Bailin/Diamond Signs & Graphics for property at 8575 Tanglewood Square – Unit F-3

The applicant is requesting area variance(s) for the purpose of installing window signs on the East elevation, right of the entrance for Goodwill. The property is located in a CB District.

Application 2022-47 by Mark Bailin/Diamond Signs & Graphics for property at 8575 Tanglewood Square – Unit F-3

The applicant is requesting area variance(s) for the purpose of installing window signs on the East elevation, left of the entrance for Goodwill. The property is located in a CB District.

Mr. Lamanna stated that the two applications from Diamond Signs and Graphics will be heard together since they are the same thing and the same location.

Mr. Mark Bailin of Diamond Signs and Graphics was present to represent these applications.

Mr. Lamanna swore in Mr. Mark Bailin and he let the record reflect that Mr. Bailin was duly sworn.

Mr. Mark Bailin testified that this is on the east elevation so this is the side where there is already a wall sign, we actually work independently from Archer so that is why it is actually two separate companies here, both of us work with Goodwill. He said it is a tradition of Goodwill when they have a section that is donation to have it as private as possible and part of that tradition also is there are graphics added and they do in most cases like to have full coverage as shown here and the code within Bainbridge Township is that you can only have 25% of window covering with graphics or any sort of advertising there and one of the requests is these two banks of windows on either side of the entrance to the donation center have the graphics, they are of course 100% coverage of the window panes. He said this is of course the east side and this is where their donation center is again, he emphasizes that most of the locations have a similar type of window coverage because it creates a sense of privacy so basically the people who are working there have a sense of privacy of what is going on.

Mr. Lewis said he believes our code states and is directed at 25% maximum could be advertising like your company name and such.

Mr. Bailin said correct.

Mr. Lewis said there is no limitation on just non-company branding specific artwork on the rest of it so you could be at 100% but your advertising copy 25% and we actually have this in place with more than one other existing business in the township so one of the approaches on this, at least his point of view when he was looking at it is that the graphic imagery isn't advertising, your company name and the donate here and all of that, you have got to fit that into 25%, that puts you consistent with our code and also with what other businesses in our town have complied with so maybe it is just a matter of rearranging your copy.

Mr. Bailin said if he understands that correctly where we have "Donate" and "Goodwill", this is 25% of the window.

Mr. Lewis said there are four windows there.

Mr. Bailin said correct but what his question is going to be is where there is any sort of text that is what he wants clarification on, they have four windows on each side and these three because they don't have any text or say Goodwill on them technically would not have to have a variance, does he hear that correctly.

Mr. Lewis said correct because there is no advertising copy on them, your company name.

Mr. Lamanna asked are we looking at this thing on a window by window basis or are we looking at it as each panel, to him there are two panels here.

Mr. Steve Averill, Zoning Inspector testified that Ms. Karen Endres took it apart.

Mr. Lewis said she took it into four pieces.

Mr. Lamanna said the glazed surface of the window.

Mr. Averill said if this is a drive-up, the drop-off area, donate here.

Mr. Lamanna said it is informational from the standpoint of that is where you drop it off.

Mr. Lewis said right, it is directional.

The board discussed another application where there was no text.

Mr. Lamanna said he sort of questioned the need to have these, you have this massive sign up above, he doesn't know why you need this, this one over here on the right above the "Donate Here".

Mr. Bailin said but if he understands correctly if they bring it down to 25% of the window.

Mr. Lewis said he is in Chapter 173 right now and does not see a definition of window. He said it very specifically does say “will not obscure more than 25% of the glazed surface of any window”. He said it is talking singular it is not talking about a group or a cluster, it is an individual piece of glass.

Mr. Lamanna said a glazed surface runs from frame to frame.

Mr. Lewis said theoretically on any glazed area, that is a window, somebody is entitled up to 25% of that but no more in advertising company name or whatever.

Mr. Averill said there is also a question that wall signs are pertinent to a unit per the regulations but window signs are not relevant in the regulations to any specific unit so he is wondering if you have to consider that if you grant a variance for window signs you are not doing the whole property and you put a condition on that variance if you grant it for just two windows because the regs don't differentiate window signs for a unit, you would be talking about the whole property in his view.

Mr. Soryal asked Mr. Averill if Ms. Endres interpreted this as a separate window if the percentage now of that big window more than 25% why was that not granted.

Mr. Averill said he can't find her worksheet.

Mr. Soryal asked is it more, do you know if the words “Goodwill” here is more than 25% of the sign.

Mr. Bailin said he can shrink it down to less than 25%, that can be done.

Mr. Soryal said visually it looks like it is.

Mr. Bailin said he is not going to disagree because he knows the size of those windows.

Mr. Lewis said is it directional or instructional and does it serve a traffic pattern.

Mr. Lamanna said it does kind of serve a traffic pattern. He said it could make life a lot easier if you made the boxes plain on the left and then just the Donate. Shop. and the thing on top of that if you got rid of that, why do you need Donate. Shop. when you've got two things that say Donate Here and he thinks you could easily come down under 20% on that one, on the Goodwill side and why do you need it on the other side and we really would rather not have the advertising that is there, it is there to accommodate people but in this case it is really not adding anything to the graphic and there is already a big sign up on top, people know it is Goodwill.

Mr. Lewis said he noticed there is not a single computer or printer that could fit in the graphics.

Mr. Lamanna said if you just have Goodwill and the website under it he thinks you are probably down to below 25%.

Mr. Soryal said if that is more important information take the word Goodwill out, you already have it up on the top.

Mr. Bailin said either way, make sure the text is only 25%.

Mr. Lewis said whatever copy you decide to use.

Mr. Lamanna said what we can say is we can make a determination that “Donate Here” is not part of the advertising, we will treat it as directional but you are going to stay within the 25%.

Mr. Lewis asked are you including the “Donate Now” in the 25%.

Mr. Gutoskey said he would say no, it is informational.

Mr. Lamanna said we are saying it is informational so it doesn't count as 25%, it is still part of the glazed area but we are not counting it.

Mr. Lewis said he just didn't want to see that come in being four times as big as it is because it is directional and not part of the 25%.

Mr. Bailin said so leave that as is as long as it is 25% of that window pane.

Mr. Lamanna said on the left side, why do we need two more “Goodwills” over on the left-hand side.

Mr. Lewis said this drawing shows you both the left and the right even though we have two applications.

Mr. Gutoskey said on the right-hand side it has each sign.

Mr. Lewis said that was the right side and the left side is pretty much an inverse of it and it has got the boxes on it that say “Goodwill”.

Mr. Gutoskey asked if there will be graphics on the north side too.

Mr. Bailin said on the north side, yes, there are some.

Mr. Gutoskey said but they are less than the 25%.

Mr. Bailin said yes, the graphics are well under 25%.

Mr. Lamanna said the “Wired Up” ones are under 25% too.

Mr. Bailin said yes they are under 25%.

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

Motion BZA 2022-46 and BZA 2022-47 – Diamond Signs & Graphics – 8575 Tanglewood Square – Unit F-3

Mr. Lamanna moved that with respect to BZA 2022-46 and BZA 2022-47 the board will do both of these applications together since the issues are pretty much the same.

1. In viewing what the applicant has proposed the board is determining that on the proposed graphic the parts of the sign that say “Donate Here” will be treated as directional and therefore will not count toward the 25% as a window sign.
2. The applicant has agreed that the copy that does qualify as a window sign on the two larger panels on each application will not exceed 25% of that particular window that they are applied to and what the board scaled accordingly and therefore those signs will then not exceed the permitted window sign on the surface of a window.

Mr. DeWater seconded the motion.

Vote: Mr. DeWater, aye; Mr. Gutoskey, aye; Mr. Lamanna, aye; Mr. Lewis, aye; Mr. Soryal, aye.

Application 2022-48 by Cary Sanders for property at 7557 Chagrin Road

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

Mrs. Cary Sanders, Mr. Chris Sanders and Mr. Frank Jaczo, builder were present to represent this application.

Mr. Lamanna swore in Mrs. Cary Sanders, Mr. Chris Sanders and Mr. Frank Jaczo and he let the record reflect that Mr. and Mrs. Sanders and Mr. Jaczo were duly sworn.

Mr. Frank Jaczo testified that they would like to put a sunroom addition where the marker is and they need 1-1/2’ he thinks according to the zoning to be able to put it there even though the structure has been there a lot longer than any of us have been around. He said it was across the road where the powerlines are, it was a one-room schoolhouse and when the power lines went in it was moved to that property where the owner happened to be a judge, her great-grandfather and he held court on the front porch, that is how long that building has been there. He said there is a brick pier across the road on the southeast side, that was part of that entrance to that schoolhouse and that brick pier is still there, it is leaning.

Mr. Jaczo continued by saying the location for the sunroom, they can't really move it a whole lot because of the way that the interior works out, there is a stairwell going down otherwise we would just move it back 1-1/2' but the entrance to the room doesn't work anywhere else on the property. He said the whole southwest side there starting from, not where the marker is but right there, there is a stairwell going down to the garage (he referred to the displayed aerial) so you really can't attach that, you follow.

Mr. Lamanna replied yes.

Mr. Jaczo said the entrance would be where that window is located where this marker is now into the sunroom and that is basically it, he doesn't know what else. He said they did locate a marker across the road.

Mr. Gutoskey asked how does that help, the marker across the road, how does that help.

Mr. Jaczo said to determine the location for the right-of-way.

Mr. Gutoskey asked how do you know it's the property corner.

Mr. Jaczo asked on the other side of the road.

Mr. Gutoskey said yes.

Mr. Jaczo said it corresponds with your lines that are there. He said there is a surveyor's pin driven into the ground.

Mr. Gutoskey asked how he knows a surveyor set it and asked Mr. Jaczo if he is a surveyor.

Mr. Jaczo said he has located many lots.

Mr. Gutoskey asked Mr. Jaczo if he has a license.

Mr. Jaczo said he is not a licensed surveyor, no but he has located many lots in the past 50 years in multiple locations.

Mr. Gutoskey said you are surveying without a license.

Mr. Jaczo said he has actually located pins and built the entire structure from the ground up, physically, multiple times but that is beside the point. He said if need be then a survey will be done, it will be six inches one way or the other.

Mr. Gutoskey said you asked the board to give you a variance and setting a distance to that variance but we are not even sure what the distance is, do you have an old mortgage survey or anything with dimensions. He said typically when your property transfers you will get a package from your title insurance company that will have a survey in it.

Mrs. Sanders testified that she doesn't know.

Mr. Sanders testified that they are not sure if they have it.

Mrs. Sanders said they bought the house from her grandfather who bought it from his father so she doesn't know.

Mr. Gutoskey said because typically if you had to get a mortgage with title insurance that drawing would be part of it.

Mr. Sanders said their mortgage was through Cary's grandfather.

Mr. Lamanna said as a practical matter it doesn't make much difference.

Mr. Gutoskey said it is going to go on the house.

Mr. Lamanna said 65' or something, the only real question is the board wants to grant a variance that is right, the last thing we want is to give you a variance of 63'6" and then you find out.

Mr. Jaczo said that it is 75'.

Mr. Lamanna said when you find out it is really 70' so now you've got an encroachment situation.

Mr. Jaczo said unless they completely missed the road, then yes.

Mr. Lamanna said he thinks from the way he would look at this thing since we have an existing house that is only 36' off the road we have an existing structure which dictates pretty much where the location of this will be because of the way the structure was already built it kind of forces it to a certain spot which is quite a bit behind the front of the house anyway it really within reason doesn't matter what the number is.

Mr. Jaczo said the house pre-dates zoning.

Mr. Lamanna said it is just that we would like the number to be close to correct because the last thing you want is 10 years from now and you go to sell this house and somebody does a survey on it and they look and they say this addition doesn't meet zoning.

Mr. Jaczo asked was the road surveyed when they repaved it.

Mr. Lamanna said probably not.

Mr. Lewis said the board is compelled to substantiate the setback from the house, you are adding onto the house, is the house 75, 78, or 65 or 70.

Mr. Jaczo said the house is 44.

Mr. Lamanna said he thinks we are over-thinking this and he thinks within the parameters the board sees here, we obviously don't know to the nearest 1' or 2' what this is.

Mr. Jaczo said it is going to be within a 2' max.

Mr. Lamanna said if it is 70' he doesn't think the board cares, if it is 65' he doesn't think we care, we are way over-thinking this. He asked how far it is from the front of the addition to the front of the house.

Mr. Gutoskey said it looks like from this it would be 37' behind the front of the house.

Mr. Lamanna said being approximately 73' from the lot line.

Mr. Gutoskey asked if the addition is going to have gutters and downspouts.

Mr. Jaczo said of course.

Mr. Gutoskey said and you are going to direct the drainage.

Mr. Jaczo said yes, they are existing there, that is all new construction on the back of the house, that is all 2013, we are just going to connect to there.

Mr. Lewis said great.

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

Motion BZA 2022-48 – 7557 Chagrin Road

Mr. Lamanna moved to grant the applicant a variance for installing a 14' x 18' sunroom addition in accordance with the plans submitted by the applicant.

1. A variance to allow an enlargement of a non-conforming use under 165.08(B).
2. A variance from the minimum front yard setback such that the sunroom will be 37' from the front of the house which the board believes to be approximately 73'6" from the right-of-way but a variance is granted to the actual distance of that is from the right-of-way.
3. A variance with respect to the existing house to the existing dimension which again it is believed to be 36'6" to the right-of-way.

Based on the following findings of fact:

1. The variance to the existing house is granted because it is a pre-existing, non-conforming use.
2. It was built before the zoning and obviously the house cannot be moved now.
3. The increase in size with the addition of the sunroom is a reasonable extension of the existing non-conforming use of being set too close to the road.
4. The house itself is only fractionally within what would be otherwise the required setback.
5. This location actually is physically the location the addition has to be because of the existing internal structure of the house.
6. The addition of a sunroom is not so great as to be unreasonable with respect to anything nonconforming.

Mr. Lewis seconded the motion.

Vote: Mr. DeWater, aye; Mr. Gutoskey, aye; Mr. Lamanna, aye; Mr. Lewis, aye; Mr. Soryal, aye.

Application 2022-49 by Kathleen Dangelo for property at 16681 Savage Road

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

Ms. Kathleen Dangelo, property owner; Mr. Terry Brennan and Mr. Doug Nemeckay were present to represent this application.

Mr. Lamanna swore in Ms. Kathleen Dangelo, Mr. Terry Brennan and Mr. Doug Nemeckay and he let the record reflect that Ms. Dangelo, Mr. Brennan and Mr. Nemeckay were duly sworn.

Mr. Doug Nemeckay presented some additional photos to the board and testified that what they are proposing or asking to be considered is Ms. Dangelo is wanting to put a swimming pool in the backyard and the property itself is pretty challenging, once you get behind the house there are some considerable grade changes so there are some limitations topographically as far as where the pool can go and as a result of that we are asking for a 4' variance on one corner of the pool as it relates to the side yard setback.

Mr. Soryal asked where these stairs are.

Mr. Nemeckay stated that they are coming right here right now.

Mr. Soryal said so that is why the pool can't be moved over.

Mr. Nemeckay said they don't want it to be that close to the set of steps because it is the main traffic flow from the upper terrace and having the edge of the pool within 5' of the bottom steps doesn't feel safe.

Mr. Soryal asked what are you proposing it to be from the stairs to the edge of the pool.

Mr. Nemeckay said they are picking up another 4' here so it is going to be 10' total and that should be on one of the drawings as well. He said this one is sort of a different version.

Mr. Brennan said this is probably the best representation from that one.

The board reviewed the site plan.

Mr. DeWater said the neighbors are a couple hundred feet away.

Mr. Gutoskey said there is a big farm and there is nobody around, there is a little ravine that goes through there as well. The two lots were combined, those were two bowling alley five acre lots that were combined into ten acres and there is that big farm on the corner of Savage and Washington Street.

Ms. Dangelo testified by saying yes.

Mr. Lewis said it has zero impact on the neighbors.

Ms. Dangelo said and they will have it all fenced in.

Mr. Brennan said and everything else will comply with the code.

Mr. Lewis said it is not like it is an ornamental structure, you can't see it from the bedroom window next door. He said we are looking for a 6' side yard.

Mr. Gutoskey asked about the replacement septic.

Ms. Dangelo said it is on the other side.

Mr. Gutoskey said it is ten acres so it shouldn't be a problem.

Mr. Lewis asked if the 6' is the boundary of the pool or is that the boundary with the pool with the decking around the pool, he thinks our zoning inspector might be suggesting that might require another permit and does the setback go from 44' to 40', he just wanted to cover everything now.

Mr. Lamanna said there is a note on here, we just had a question, it says "the pool deck/patio requires separate permitting".

Mr. Steve Averill, Zoning Inspector testified that Ms. Karen Endres issues permits for things separately, she does the fence, the decking and the pool separate.

Mr. Lamanna said okay.

Mr. Gutoskey asked will the deck need a variance if it is in the setback.

Mr. Averill replied no.

Mr. Gutoskey said just the pool, the pool is a structure.

Mr. Lamanna said he thinks what she is saying is you will need additional permits but not a variance.

Mr. Lewis said he just wanted to make sure you were good on all of this stuff.

Mr. Lamanna said we try to get everything the first time, we don't want to do it over and over again, we really try hard not to do that, we don't want people to have to come back.

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

Motion BZA 2022-49 – 16681 Savage Road

Mr. Lamanna moved to grant the applicant a variance for the purposes of constructing a swimming pool.

1. A variance to 44' from the north side lot line from the required 50' for a variance of 6'.

Based on the following findings of fact:

1. A practical difficulty exists because the existing landscaping and stairway would be unreasonably close to the pool if it was located the full 50' away.
2. The board notes that the adjacent lot is a large farm and there is no adjoining buildings.
3. This would not adversely affect the neighboring property owners nor would it adversely affect the character of the neighborhood.

Mr. Gutoskey seconded the motion.

Vote: Mr. DeWater, aye; Mr. Gutoskey, aye; Mr. Lamanna, aye; Mr. Lewis, aye; Mr. Soryal, aye.

Since there was no further testimony, the public hearing was closed at 8:30 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: December 15, 2022

AUDIO RECORDING ON FILE

Bainbridge Township, Ohio
Board of Zoning Appeals
November 17, 2022

The regular meeting of the Bainbridge Township Board of Zoning Appeals was called to order at 8:30 P.M. by Mr. Michael Lamanna, Chairman. Members present were Mr. Ted DeWater; Mr. Joe Gutoskey; Mr. Todd Lewis and Mr. Emeil Soryal. Mr. Steven Averill, Zoning Inspector was present.

Application 2022-40 by Brian Wheatall for property at 17073 Snyder Road

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

Mr. Lamanna stated that the board will revisit BZA application 2022-40.

Mr. Brian Wheatall was present to represent this application.

Mr. Lamanna swore in Mr. Brian Wheatall and he let the record reflect that Mr. Wheatall was duly sworn.

Mr. Wheatall testified that you recall he was here last month requesting a size variance for an accessory building, he wanted to put an addition on his garage larger than 900 sq. ft. He said the size variance was approved however he was unable to prove the distance from the existing garage to the property line, that was the south property line. He said he has worked with the title company and they have found the mortgage survey that was done on the property so he is going to present that to the board. He said it does show the distance of the existing accessory building at 33', that is different than what he had presented on his application.

Mr. Gutoskey said the question is too then if you add directly onto this he thinks you might need a variance for the addition too but this is 33' in the front and 39' in the back for that garage.

Mr. Wheatall said the addition is going on the back side of the garage so we are going away from the line.

Mr. Gutoskey said he knows but what the board needs to figure out is whether or not you need the variance to the new building.

Mr. Wheatall said the variance to the new building is less than the original application.

Mr. Gutoskey said because he is only 33' and 39' and with the new building it may or may not be more than 50' off the line.

Mr. Lewis said where it starts and where it ends, it may be diagonally what 39' to 44' off as it slopes along.

Mr. Gutoskey asked what the dimensions are on the new building.

Mr. Wheatall said 24' by 32' enclosed with an 8' overhang on the back so it is effectively a 24' by 40' addition.

Mr. Lamanna said the front right corner is 33'.

Mr. Gutoskey said and the rear is 39' so just proportioning it out he gets the rear corner of the new as 46' proportionately.

Mr. Lamanna said the closest point it is to the line is at the front of the new addition.

Mr. Gutoskey said it is 33' but the new building is going to need a variance too, it is 46' instead of 50', that is the back corner.

Mr. Lamanna said 33' at the front corner is existing then it goes to 46' at the back corner.

Mr. Gutoskey said of the proposed.

Mr. Soryal said the new one goes from 39' to 46'.

Mr. Lamanna said we will modify the motion and we can just correct the minutes. He said we will have to add a second variance of 33' for the existing.

Mr. Gutoskey said he only requested a variance for the size.

Mr. Lamanna asked if he didn't do one for the side yard.

Mr. Gutoskey said no.

Mr. Lamanna said that is a problem.

Mr. Averill said he asked Ms. Endres about that and we thought of it as housekeeping.

Mr. Gutoskey said because of the new building, that is the problem.

Mr. Lamanna said it is a question of notice, if there is enough in the application that somebody would have adequate notice that this was a possibility then he thinks it would be okay otherwise.

Mr. Gutoskey said nobody showed up at the meeting either.

Mr. Lamanna said right but they don't necessarily know there is a problem, they may look and see that it is just to build a bigger building and they don't realize that it is to build it closer to the property line. He said one thing we could say is what we are granting is still less than what exists but it does potentially increase the size of the nonconformity.

Mr. Wheatall said but it was previously approved and inspected by zoning when the original building was built.

Mr. Gutoskey said understood but who knows what happened back then.

Mr. Lamanna said the fact that somebody inspects doesn't mean that they actually verified every single setback was proper.

Mr. Averill said especially out in the woods.

Mr. Gutoskey said even the plans said it was 60' and this says 68' so the house was in the ballpark of where it was supposed to be.

Mr. Lamanna asked where is the nearest neighbor on that side, is it far away. He said it is somewhat of a close question as to whether or not there was sufficient notice. He said the risk to you (Mr. Wheatall) would be that on the unlikely chance that the adjacent property owner was upset and they would come back and say they didn't get notice on this thing.

Mr. Wheatall said but they did.

Mr. Lamanna said sufficient notice as to what, yes you were putting an addition on but not that it was encroaching on the side yard.

Secretary's note: It was advertised as area variance(s) and not a specific size or setback variance.

Mr. Lamanna said the only risk is that someday he would come back and try to challenge it but even if he did you (Mr. Wheatall) could still come back and be renoticed and reheard and why would we make a different decision, it is a practical matter.

Mr. Gutoskey said it is not getting worse than it already is now.

Mr. Lamanna said it is not getting worse. He said we have to modify this we have to add a variance of 33' to the side yard setback for the existing structure and then a variance ranging from 39' to 46' for the addition. He said we will scratch out #3 and #4 and replace #3. There will be three variances, the existing variance and two more so it will be #1, #2, #3 and then the findings of fact, we will remove #3 and #4. He said #3 will be replaced with "There are no structures near the property line on the adjacent property." He said #5 will be renumbered as #4, #5 and #6 of the Findings of Fact.

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

Motion BZA 2022-40 – 17073 Snyder Road

Mr. Lamanna moved to modify the findings on this application to reflect the board's discussion adding two additional variances and modifying the findings of fact as discussed.

1. A variance for a 960 sq. ft. addition to a 768 sq. ft. garage for an 828 sq. ft. increase to the maximum accessory building size allowed of 900 sq. ft.
2. ***A variance to 33' from the minimum required 50' setback on the south side yard property line for the existing structure.***
3. ***A variance to 39' for the front of the addition and 46' for the back of the addition from the minimum required 50' setback on the south side yard property line.***

Based on the following findings of fact.

1. The applicant will have gutters on the new extension of the building and tied into the downspouts and drainage to the downspouts that exist on the existing garage.
2. The applicant also understands that this building is only for conducting personal activities and not for the conduct of any business unless it qualifies as a home occupation and a suitable certificate is obtained prior to commencing such work, nor will it be used as any additional living space for the property.
3. ***There are no structures near the property line on the adjacent property.***
4. ~~This approval is granted subject to the applicant verifying that the front right corner of the existing structure is at least 50' from the side property line. The existing evidence before us is inconclusive as to the exact location of that but so long as it ultimately determines to be at least 50' this application is approved, if it is less than 50' then the application will have to come back for further action.~~
5. ~~The applicant will contact the zoning office to make arrangements for the zoning inspector to come out and look at the existing markings along that property line to see if we can determine where the actual property line lies and the zoning inspector must be satisfied and a reasonable discretion that they have located the actual line and the point on the existing garage is a least 50' from that line.~~
4. 5. The reason for granting this application is that this is a large five acre lot.
5. 6. The additional size of the accessory building is not unreasonable given the size of the lot.
6. 7. It is also consistent with the character of the neighborhood and will not adversely affect that character nor will it adversely affect the adjacent property owners as well.

Mr. Gutoskey seconded the motion.

Vote: Mr. DeWater, aye; Mr. Gutoskey, aye; Mr. Lamanna, aye; Mr. Lewis, aye; Mr. Soryal, aye.

Secretary's note: ***Additions are in bold italics and deletions are in strikeout. The minutes dated October 20, 2022 will be amended to reflect the aforementioned motion for BZA 2022-40.***

MINUTES

Mr. Lamanna moved to adopt the minutes of the October 20, 2022 meeting with corrections by Mr. Gutoskey on the Jiffy Lube application as well as the modifications to 2022-40 for 17073 Snyder Road.

Mr. Lewis seconded the motion.

Vote: Mr. DeWater, aye; Mr. Gutoskey, aye; Mr. Lamanna, aye; Mr. Lewis, aye; Mr. Soryal, aye.

APPLICATIONS FOR NEXT MONTH

Application 2022-50 by Stephen Ciciretto for Matthew Creech/8198 Washington Street LLC and Kimberly Gibson for property at 8200 Washington Street

The applicant is requesting a conditional use permit for the purpose of operating a commercial party center. The property is located in a CB District.

The Bainbridge Township Board of Zoning Appeals set a public hearing on the above applications for December 15, 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 8:47 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: December 15, 2022