

Bainbridge Township, Ohio
Board of Zoning Appeals
March 16, 2023

Pursuant to notice by publication and ordinary mail, the public hearing was called to order at 7:02 P.M. by Mr. Michael Lamanna, Chairman. Members present were Mr. Brent Barr, Alternate; Mr. Joseph Gutoskey; Mr. Todd Lewis and Mr. Emeil Soryal. Mr. Ted DeWater was absent. 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. Brent Barr, Alternate joined the board for consideration of the following applications in Mr. DeWater's absence.

Mr. Lamanna swore in Mr. Steven Averill, Zoning Inspector.

Application 2023-3 by Igor & Alla Narodovich for property at 17410 Sugar Hill Trail

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

Mrs. Alla Narodovich was present to represent this application.

Mr. Lamanna swore in Mrs. Alla Narodovich and he let the record reflect that Mrs. Narodovich was duly sworn.

Mrs. Narodovich testified that they moved here about 2-1/2 years ago to a bigger house from a smaller house and knew the car would be outside so they decided to put a little awning but apparently that wasn't allowed and they didn't know that so now they are waiting to take that down but they would like to extend the garage just a little bit because they have four people and having cars outside is not working good, they've got some damages because of a bad winter, because of wind, because huge chunks of trees are falling down so they would like to extend the garage a little in the same area that they already have.

Mr. Lewis asked if the proposed garage addition is going to reside on an existing drive pad that is already there.

Mrs. Narodovich said yes.

Mr. Lewis said okay and there seems to be some areas where you've got stuff that is not all the way on your property.

Mrs. Narodovich asked are you talking about that awning that we have.

Mr. Lewis said yes

Mrs. Narodovich said they didn't realize and the neighbor doesn't care one way or the other, they just had no idea that it wasn't allowed until somebody complained about that little addition we put up so they are just trying to protect the cars.

Mr. Lewis said maybe just take them one at a time. He said you've got another lot, like a little triangle.

Mrs. Narodovich said yes.

Mr. Lewis said it looks like your house or your deck is partially on that.

Mrs. Narodovich said it is possible, when they bought the house everything was there, they just moved in, they were not aware of whatever was there.

Mr. Lewis said he was just looking at it as a housekeeping matter.

Mr. Gutoskey said yes, it looks like they split this to orient that house on the lot.

Mr. Lewis explained to Mrs. Narodovich per the site plan and said here is your triangle adjacent and you've got your house on this parcel, there is a way to remedy that by attaching this parcel to that parcel which then brings this structure and your deck into compliance.

Mr. Lamanna said you have a platted subdivision issue here, right.

Mr. Lewis asked how that works with Tanglewood.

Mr. Steven Averill, Zoning Inspector testified that there is a correction he has to make to the staff letter, you have a side yard of 15' and it is supposed to be 20', there are no changes or variances required and if you look at the staff letter you will see the setback of 15'.

Mr. Lamanna asked if that should be 20'.

Mr. Averill said yes.

Mr. Barr said but it is 22' 11" so she is still good.

Mr. Averill said the affidavit of fact on the staff letter that is referred to is something that he wants the board to address as well so that you can make sure that it gets taken care of.

Mr. Gutoskey said otherwise they would have to do a re-plat.

Mr. Lewis said it can get expensive but that attaches it and solves a riddle.

Mr. Lamanna said it creates a record trail that these two lots are effectively traveling as a single lot even though they are shown as two separate lots, actually one is not even a platted piece of it.

Mr. Gutoskey said it is split off the adjacent subplot. He said another thing too that he discussed with Mr. Averill was the lot coverage, when it was calculated here it just included the one lot it didn't include the extra 15 hundredths of an acre so he got the same thing as Mr. Averill got, 9,670 is the allowable lot coverage and then on the staff letter it has 9,970 for lot coverage, that includes the 140 sq. ft.

Mr. Averill said that number was provided by the architect.

Mr. Gutoskey said you calculated 9,935 sq. ft.

Mr. Averill said he got a confirmation from the architect that it was 10,300 sq. ft. of coverage so by elimination of a portion of lot coverage, that small sliver, that is how Mr. Narodovich came up with the figure you see on the application.

Mr. Gutoskey asked what number do we use, the 10,300 because you got 9,735.

Mr. Averill said yes, 9735.

Mr. Gutoskey asked if that includes the extra 140 for the driveway.

Mr. Averill said yes, proposed.

Mr. Gutoskey said you have it calculated at 9,735.

Mr. Averill said yes he did that using the GIS system.

Mr. Gutoskey said the other thing is too he is not sure if when they calculated the driveway they included what was in the right-of-way, maybe.

Mr. Averill said we have a property file on this but there are no records in it so he doesn't have any way to go back in the records. He said for the sake of history he believes this is one of the original houses in the subdivision supposedly built by Mr. English and by not having any records makes it difficult but the turn-around was what was in question and apparently that chunk of asphalt was constructed or added prior to them buying the property.

Mrs. Narodovich said it will be three years.

Mr. Gutoskey said so your new garage is going right next to your existing and you can still pull in the front.

Mrs. Narodovich said right.

Mr. Gutoskey asked what about the extra pavement on the side of that garage, are you going to leave that.

Mrs. Narodovich said they are going to move it and do whatever they need to do, just stay within allowed.

Mr. Gutoskey said okay.

Mr. Lamanna said the door is going to be front facing.

Mrs. Narodovich said yes.

Mr. Lamanna said the driveway is actually still going to go over here somewhere.

Mrs. Narodovich said yes, it is all staying the same, we are just going to move it.

Mr. Lamanna said take out the driveway that is there and put a garage there matching the roofline.

Mr. Gutoskey said what he was looking at was the section of the garage to the left of the proposed garage, that section of pavement in there, this extra pavement in here.

Mr. Lamanna said to the left of where the new garage will be.

Mr. Gutoskey said yes because part of the pavement is behind the garage which they could probably take out enough to be below or at what is allowable because you are not talking that much. He said based on Mr. Averill's number you are only looking at 60 – 70 sq. ft. but if you go with the architect it is 600 sq. ft. over.

Mr. Lewis asked what are you suggesting they remove.

Mr. Gutoskey said if they want to just remove part of the asphalt next to the garage and leave space there.

Mr. Lewis said trim the back of it.

Mr. Lamanna said just have an 8' wide section for one car.

Mr. Gutoskey said that gets you under the lot coverage so they will get their two-car garage and an extra space next to it on the side of the garage, just leave 8' or 9' next to the addition and trim the asphalt off next to it.

Mr. Lamanna asked Mrs. Narodovich how much room do they want, is one parking spot alongside the garage enough.

Mr. Barr explained to Mrs. Narodovich per the site plan the part of the asphalt that should be cut off and asked her how much room she needs if she wanted to park a car there she could or put her garbage cans there.

Mrs. Narodovich said okay.

The board discussed the amount of asphalt that should be removed.

Mr. Gutoskey said it would put them below coverage. He said he would say leave a 10' strip on the side of the garage.

Mr. Lamanna said it would go parallel to the side of the garage until it reaches the existing garage, the back of the garage.

Mr. Gutoskey asked Mrs. Narodovich if they are going to need a walk behind the garage to get to the back since your walk right now goes next to your garage.

Mr. Lamanna asked if there is a door there.

Mr. Gutoskey said to Mrs. Narodovich, right now you have this walk that goes behind and comes in here.

Mrs. Narodovich said yes.

Mr. Gutoskey asked are you going to put a door here in the garage or are you going to need a walk.

Mrs. Narodovich said probably just in the front, right now we can walk either way.

Mr. Gutoskey said right but the way you are building your garage you are not going to have enough room here with where this little piece is.

Mr. Lewis said the garage has a door.

Mr. Lamanna discussed the proposed garage and the door location.

Mrs. Narodovich said this is the door where we go inside.

Mr. Gutoskey said right now you are coming into the side of the garage like this, right.

Mrs. Narodovich said here is the door.

Mr. Gutoskey said but the door is going to be here now.

Mrs. Narodovich said yes.

Mr. Gutoskey said the door lines up with the back wall.

Mr. Averill referred to the site plan and said that is like 500 sq. ft., it is 24' right here so if you eliminate 10' of this and then eliminate all of this that will put them way under.

Mr. Gutoskey said just leave a 10' space next to the garage for parking a car or whatever.

Mr. Lewis said this area gets hacked off and this area gets filled in.

Mr. Lamanna said they will still be under by what. He said the board will make those changes and just allow another 100 sq. ft. incase somebody finds something that they need to extend a walkway or something so we are not back here again.

Mr. Gutoskey asked if it is 100 over what is permitted. He said they are allowed 9,670 and right now they are under it with what he is calculating which is 9,550.

Mr. Lamanna said 9,670 is the permitted amount.

Mr. Gutoskey said yes so it is 115 below give or take.

Mr. Lewis said they don't even need a lot coverage variance.

Mr. Lamanna asked where we are on the west side with this setback and do we have enough setback with that triangle of land with the existing deck. He said why don't we address this as 18' and give them a variance to 18'.

Mr. Gutoskey said versus 20'.

Mr. Lamanna asked if anybody has any comments.

Mr. Matt Lynch stated that he lives next door to Alla and Igor, they are great neighbors, no problems. He said he doesn't know who objected to that little thing they have in the driveway now, it is no problem for us but he stopped and saw Mr. Averill earlier and went through all of this and it is perfectly fine with us, he can't imagine anybody that would object, it is all treed all around there but he will tell you the history. He said their house, Alla and Igor's house and then our house to the west, they were all built by Phil English, he built the further most one, built it and then he built the second and third one and he wasn't too particular about the property lines so that is why you've got that sliver so the angle and so forth but that is a circular drive you want to make sure they have plenty of room to turn around there, he knows you are talking about cutting back a few feet on the driveway so.

Mr. Lamanna said it is on the side.

Mr. Barr said it is not part of the horseshoe.

Mr. Lamanna said they can still back out and go around.

Mr. Lynch said he thinks it is perfectly fine, he can't imagine anyone would object to it.

Mr. Lamanna said it is probably closer than 20' on your side there, the little triangle side, it has been that way for a very long time.

Mr. Lynch said it is very treed, he is sure it will be fine.

Mr. Gutoskey said and he would say too with the rear setback area and seeing it is on the lake so it is not impacting anybody behind them.

Mr. Lamanna said that goes back into the golf course.

Mr. Gutoskey said see the way the house is oriented there.

Mr. Lewis said so we affidavit these together, we give a side yard variance of 18'.

Mr. Lamanna said a side yard variance and a rear yard variance and we cut back on the side for a 10' pad there even with the back of the garage and then they have the 9,670 which is enough to cover all of that.

Mr. Gutoskey said the rear yard variance would be 14'.

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

Motion BZA 2023-3 – 17410 Sugar Hill Trail

Mr. Lamanna moved to grant the following variances to this property in connection with the construction of an addition.

1. A variance to the rear setback to 36' for a variance of 14'.
2. A variance on the west side setback from 20' to 18'.
3. The board notes that the applicant has agreed to a modification of the plan that was submitted to reduce the size of the asphalt paving on the east side of the property to an area that is 10' wide whose depth will be to the back line of the new garage expansion and the side will be parallel to the side of the new expansion up until the point that projecting that line to the point at which it reaches the existing driveway and with that reduction of the existing paving the applicant is below the permitted 9,670 square foot coverage.
4. The board also notes that the applicant owns a second subplot that is connected with this. That subplot has never been actually incorporated in the platted lot so the board will require that the applicant file an affidavit of fact indicating that these two lots are being treated as a single lot in order to preserve for the record the fact that the board has treated this as a single lot and ignored the internal lot line and the applicant will provide such an affidavit and supply that to the zoning inspector prior to obtaining the zoning certificate.

Based on the following findings of fact.

1. The variances are granted because this was an existing house and it was built long ago with the setbacks.
2. The setbacks are not adversely affecting the neighboring properties nor are they really inconsistent with some of the other setbacks in the neighborhood.
3. Also additionally, because of the oddball shape of the original lot it would have been very difficult to place the house on that lot far enough forward to meet the side setbacks and still meet the rear setbacks so this lot has a practical difficulty because of its shape and it also supports the granting of the variance.

Mr. Gutoskey seconded the motion.

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

Application 2023-4 by Shannon McIvor Bowser for property at 7125 Cedar Street

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

Ms. Shannon McIvor Bowser, Mr. Joe Linek and Mr. John Lateulere were present to represent this application.

Mr. Lamanna swore in Ms. Shannon McIvor Bowser, Mr. Joe Linek and Mr. John Lateulere and he let the record reflect that Ms. McIvor Bowser, Mr. Linek and Mr. Lateulere were duly sworn.

Mr. John Lateulere testified that we are here tonight to talk about a house at 7125 Cedar Street which is just to kind of orient everybody it is across Cedar Street from the roller rink, it is a house that sat derelict for a number of years. He said it is in the Church Walker Subdivision, the lot itself is 154' deep by 54' wide as is common for all of the lots there in the R-3A zoning so that kind of brings us first, right, it is Church Walker. He said Ms. McIvor Bowser and her partnership bought the house a year and one-half ago he believes it was, and this subdivision, not to give a history lesson and noted that he submitted a letter to the board. He said this was platted back pre-1948, the house was built per the county records in 1949, unclear when the building permit was pulled whether or not it was before or after zoning was enacted, it was right in that same time. He said regardless on the parcel there is an existing stream that runs down through the parcel right here, he referred to the site plan, the existing house is right here and there is an existing garage in the back adjacent to that stream. He said that existing stream is hard to see in the trees but just across the yard right here where you see the back corner of this garage, it cuts right across right there so there comes problem number two. He said there was a stream on the parcel when it was platted and it has been there for as long as the subdivision has been there, the riparian ordinance was put in place in the nineties so that places an additional burden on the parcel. He said you can see that the riparian setback as imposed, the existing garage structure would be in the riparian setback as would the existing house so we've got a legally non-conforming use relative to lot size, you've also got a non-conforming use relative to the riparian setback. He said the final one, this is a cleanup, we really worked through this with Mr. Averill and this house right now has a 20' setback to the right-of-way line, it is actually in line with both the east and the west to the immediate structures and then as you go down the street as well it pretty well lines up, they are all a little uneven but lines up as you go down the street. He said he thinks the first variance as he wrote in the letter was to clean up that 20' setback and legitimize that to maintain the right as it sits should a peril occur. He said this thing with the first three justifications, is it substantial, is there any economic use of the property without it, just a summary of each one. He said on the front setback, it is legally non-conforming, will it yield a reasonable return without the variance, he believes the answer to that is no, if this house were to get destroyed you couldn't viably build another house on this parcel without that setback variance.

Mr. Lateulere continued by saying is the variance substantial, it is already there, it is legal non-conforming, would it alter the essential character of the neighborhood, no, the essential character of the neighborhood actually is probably established by this house therefore the character of the neighborhood is based on what is there now. He said the riparian setback variance, would it yield a reasonable return and is there any beneficial use to the property without the variance, no. He said he thinks the question that, he wasn't going to summarize but did the property owner buy this property or was the house built with the knowledge of this regulation in place, the answer to that was also no because that regulation was put in place after the structure was constructed. He said the reasons really come into question is because of the removal of this garage and the replacement of that garage with a new structure in the exact same location because the structure is removed and rebuilt in the exact same location it becomes a replacement at that point, that is why we are asking for the variance. He said the other thing to keep in mind with the riparian is the purpose of the riparian setback was to protect the aquatic nature of streams and wetlands. He said this is already a highly impacted urban stream, there are railroad ties on both sides of it, there is grass all the way up to it and the way it is now and it has been like that for 50 years and anything being done here actually will probably help to, forget the garage, it will actually have a lawn and some landscaping which it didn't have before, they cleaned up some trees that were probably causing problems. He said regardless of where the structure is this habitat will improve as a result of having this done but he doesn't believe the purpose of the riparian setback or the ordinance that was set forth in the nineties is at all compromised by the granting of this variance because we aren't changing much. He said the last one is the setback variance to the east property line. He said this one seems probably at its face the most substantial, 1'-6" setback from the property line right here, he referred to the site plan, and the reason for that is when you look at the size of the parcel you look at that stream that goes across here there is no ability to move this garage anywhere else on this parcel to be able to get a two-car garage in here. He said an easy answer on a larger lot or a lot without a stream they could put the garage right here with a side garage, that makes a lot of sense and in a lot of other areas that would work but this stream really presents a practical difficulty.

Mr. Lamanna said he thinks that is obvious and not to belabor the point, we've already got a bunch of structures in this area that are right up against the property lines because of those problems and here this thing is set back, it is not infringing over here on the neighbors from anything he can see and he doesn't think they are going to build more back there either not that they have a lot of room to actually have access on that one side of the property it looks like and there is a driveway on the other side anyway.

Mr. Lateulere said that one of the other things we talked about being away from the stream is if you move it forward it actually makes the problem worse because of where the house next door is. He said that location of that garage is the most ideal location on that lot because it is the furthest back from the house that is next door so when you look at all of the things put together, this was, after months of conversations about the site plan, he came to this in the last two months but we really tried to move these blocks around and tried to figure out a way to do it. He said this is keeping that garage where it was seemed to be the least impactful to everybody to keep that where it is.

Mr. Lateulere continued by saying the additional encroachment in the wetlands area, the riparian setback is this deck which is an architectural projection but as you read the architectural projections chapter of the zoning resolution it doesn't allow decks to be considered an encroachment into a riparian setback as it would be in a side setback or a rear setback underneath that section. He said it doesn't allow for riparian, however, it just says none of these projections are allowed in a riparian area so you look at some of the other things like flagpoles you understand why those aren't allowed in a riparian area, we are talking about one post for a very small deck to provide people with an outside living area for use to enjoy the stream and enjoy what is going on in that yard.

Mr. Lamanna asked Ms. McIvor Bowser if she lives here.

Ms. McIvor Bowser testified that no she does not, it wasn't inhabitable when she purchased it and the house itself is actually almost finished with construction, they are just waiting on the approval for the garage and what we need to do for those challenges that we have.

Mr. Soryal said so you don't know how active this stream is.

Ms. McIvor Bowser said she is actually there every day, they go there especially after storms and after the snow melted, they go there and check out how quickly it is moving, how high it comes up and even in our worst storms and our biggest snow after Christmas when that all melted, it has got some good force but it was still a good 8" from the top of the stream and the elevation on our side actually is 2' higher than the neighbor's and she hasn't seen it come over and they actually purchased it in October of 2021. She said her mother-in-law became sick and she was a patient advocate so she was at the hospital for a year, they put it off, she had it waterproofed right away with the intention of working on it as soon as the weather cleared so they are there every day, they gutted that place and have given it a really great new life and a big opportunity for a family to function in it. She said it is about 800 sq. ft., it is tiny so in order for it to be a functioning household for a family in Bainbridge, the average family is 3.96, you can't fit two people, she can't imagine a married couple living in that tiny space. She said she actually grew up in Bainbridge, she grew up in Tanglewood, she was the Tanglewood babysitter. She said her parents still live in Bainbridge, one of her sisters has a family on Fairlawn, her brother lives on Old Meadow so her heart has always been in Bainbridge and she always thought this area was really a special area to Bainbridge and when this house became available she just wanted it for another family to have the same opportunity that she did. She said it has been the greatest challenge, she has been a contractor for 20 years and built a 12,000 sq. ft. restaurant but this little 800 sq. ft. house has been the biggest challenge but by far her favorite.

Mr. Soryal said so the garage doesn't get wet as far as you are concerned.

Ms. McIvor Bowser said right now so it has no roof so it gets wet but from the riparian, no.

Mr. Joe Linek testified that everything slopes to the west so if that stream were to overflow the west is going to be flooded.

Mr. Gutoskey said just a comment too on the riparian, this stream has been urbanized, this isn't something going through the woods that we are worried about maintaining, he doesn't see the riparian being an issue, it is channelized right now with railroad ties.

Mr. Lateulere said the elevation to Cedar Street is about 2' below the garage floor elevation right here so in terms of any potential flooding that comes through here is going to top over Cedar Street long before any of these structures are going to get wet unless we are in a 500 year event.

Mr. Gutoskey said it is still going to go over the road first. He said the biggest thing is the 1-1/2' setback because we have run into this in this subdivision before.

Mr. Lewis asked is the 1-1/2' that you are speaking about foundation or is that overhanging gutter.

Mr. Linek said foundation.

Mr. Gutoskey said so how much of an overhang is there.

Mr. Linek said 6", 4" if you want.

Mr. Gutoskey asked how do you build it without going on the adjacent property and then how do you maintain that side of the garage if you only have 1'-6" off as far as getting a ladder to paint or clean the gutters.

Mr. Doug Cantlay said he lives in the house next door.

Mr. Lamanna swore in Mr. Doug Cantlay and he let the record reflect that Mr. Cantlay was duly sworn.

Mr. Doug Cantlay testified that he lives at 7135 Cedar Street.

Mr. Lewis asked Mr. Cantlay where his property is in proximity to this.

Mr. Cantlay said he is the east side of the property.

Mr. Lewis said immediately adjacent.

Mr. Cantlay said yes and they have been in their house about 12 years.

Mr. Lewis said from time to time we go through spells, we do enjoy having really wonderful adjacent neighbors but properties do change hands and the personality of the new property owner may differ than the current so one of the things to think about is and he thinks Mr. Gutoskey brought up an interesting point, you have 18" off your property line and he still doesn't know if that is from the foundation or the overhang and the gutter which may really end up taking it to 4" over off the property line, how you maintain it. He said he did have an observation and you might have kicked this around, the original garage was 20' x 26' and he understands the 24' wide, they are wider. He said he was looking at the proposed garage that is now 36' deep and it occurred to him that if you took 6' off the back of it as it approaches the riparian you could now shift the whole thing to a greater distance off the side property line by shortening the depth of the garage and he was looking for a way to improve upon this 18" which seems to have some practical issues for maintenance.

Mr. Gutoskey said and construction too.

Mr. Lewis said and as far as the building materials may go we have no role in architectural features but there may be some standards with the state of Ohio and building codes with that proximity to kind of kick around as well.

Mr. Gutoskey said the problem is if you build 1-1/2' off the line it impacts the adjoining owner if he wants to build something close because typically the fire code is 5' so if you are only 1-1/2' then if he wants to build something he can't be 1-1/2', he would have to be at least 5' off of your building.

Mr. Lewis said which now has an impact on what he does with his property because of your proximity.

Mr. Linek said being closer than 5', it needs to be a fire rated wall so this will be a fire rated wall.

Mr. Lewis said he is sure you took the construction materials into consideration but it is an interesting conversation to have particularly because the adjacent property owner is here and at some point sir you may relieve yourself of that property to somebody else.

Mr. Cantlay said they will probably sell it at some point.

Mr. Barr asked if this is going to be a future home for you or is this an investment you are looking at.

Ms. McIvor Bowser said originally this was going to be an investment to flip but she has given some consideration, her sister moved out of town and she is going to be coming back this year and it would be perfect for her.

Mr. Barr said so what we are saying you are building in good intentions and you guys might get along great but your sister or family member or whoever is going to be living here, it could be six months down the road.

Ms. McIvor Bowser said the fence that is directly and we still don't know, when she first bought the property she asked whose fence is this because the east there is a fence that goes one way and on the left side there is a fence that goes the opposite way so nobody knew whose fence it was but the garage happens to be on his side and in terms of construction and he has spoken to her builder and said this is going to be tight but they know how to get in here to do it.

Mr. Gutoskey asked can you dig footers and stay on the property.

Ms. McIvor Bowser said yes they can do it from the inside.

Mr. Linek said they can pre-fab that wall.

Ms. McIvor Bowser said they are flexible, if it needs to we could move it over and take a foot off.

Mr. Gutoskey asked do you think you can get to 3' off.

Ms. McIvor Bowser asked 3' additionally.

Mr. Gutoskey said no another 1-1/2'.

Mr. Linek said they have a 16' garage door which is pretty typical for a two-car garage, if we took another 1-1/2' out of that it would be a 14' door most likely, you are a little tight for two cars.

Mr. Lamanna said you've got the wall there.

Mr. Gutoskey asked can you slide that addition over a little bit.

Mr. Linek said the riparian setback is what was holding up on that.

Mr. Gutoskey said you are already in the riparian.

Mr. Lewis said unless we are in the middle of the stream.

Mr. Gutoskey said if you can move that addition that ties the garage together over to get 3' off the property line he doesn't see a problem with that because you are already in the riparian anyway and it is not like it is a virgin undisturbed riparian, it is grass, it is an urbanized stream.

Mr. Lewis said the garage is now 36' deep so if you were to shave 6' off the end of it you can actually slide it over before you actually get to the stream which would give you some wiggle room over there so maybe there are two ways to consider it, shorten the depth of the garage a little bit at the stream end or as Mr. Gutoskey said it is an urbanized waterway, just kicking around some thoughts folks. He said 1-1/2' and he is still not really clear if that is from your gutter or your footer.

Mr. Linek said it would be from the footer but they could make it to the gutter.

Mr. Lewis said so that means if you are at 1-1/2' from the eave and the gutter your foundation is now going to be approaching 3' off.

Mr. Linek said correct.

Mr. Lewis said which may be more of a target, if you get the foundation 3' off, that also means you've got a 3' pathway on your own property to maintain your building without using the other guy's property.

Mr. Cantlay said he is not really having an issue, he just didn't know until he got the letter that said you were building an addition he didn't know what was going on, that was all, that was the only purpose for him coming tonight, he is not one of those people who is going to get a ruler out and measure and stuff like that.

Mr. Lateulere said there are some solutions in here, there is a 1'-2" bump out on this breakfast room, we can slide that whole thing over for sure, 1'-2", we can find 4 more inches to get it to 1'-6". He said the ability to make this narrower in sliding more you get into a problem with the house, you can't get out of your car out of that garage door so we've got to be careful.

Mr. Gutoskey said he would like to see them keep the 16' door.

Mr. Lateulere said he thinks they can do it and keep a 16' door because all we need is 4" out of that and we will figure that out so he thinks the 3' they can do, he thinks making it shorter and kicking it any further is going to put us in a problem because you just can't pull into the garage that way.

Mr. Lewis said to get the car around the corner of the house to pull it in.

Mr. Lateulere said that is right and you can't push it further back because of the stream there.

Mr. Gutoskey said yes, right and what the 3' does is if anybody wants to build anything on the other side they would be at 3' and then you would move over the 5' and then you wouldn't have to fire rate the walls which is going to save you money plus openings.

Mr. Linek said so we are talking 3' are we talking to the gutter or the side, they could make a 6" or 4" overhang, it will minimize the impact.

Mr. Gutoskey said it is going help with the construction and it is going to help with the neighbors. He asked if there is anybody else in the audience who has any comments or anything.

Mr. Lamanna asked where the gutters will be pointing, to the stream.

Ms. McIvor Bowser said no, they have a trough drain going in front of the garage.

Mr. Linek said it will flow to Cedar Street.

Mr. Lamanna asked if anyone has any issues.

Mr. Gutoskey said he doesn't have any problems with the riparian because it is an urbanized stream, it is a channelized, urbanized stream.

Mr. Lamanna said are you just leaving the existing channelization there or does that have to be dealt with because of deterioration.

Mr. Lateulere said any modifications underneath the ordinary high watermark would require a permit.

Ms. McIver Bowser said she has been working with Colleen Sharp of the Geauga County Soil and Water Conservation so she has given them a lot of vegetation suggestions and as Mr. Lateulere has mentioned it hasn't been maintained or looked after or cleaned up at all so it could use a little extra vegetation and we have people in mind for that.

Mr. Lamanna said good choices of vegetation in that area will have a big impact and then if you do start getting deterioration then get some vegetation there.

Mr. Lateulere said it is better to manage your lawn so it won't erode away.

Mr. Lamanna said right, it will help deal with any overflows.

Mr. Lateulere said this is just a closing statement, granting this variance is going to leave this area a better spot and with the riparian relative to everything he thinks it will leave it a better spot.

Mr. Gutoskey said we've been getting a lot of variances coming in here, it is connected to Chagrin Falls with the school even though it is Bainbridge he thinks people are seeing that they can invest in here.

Mr. Lateulere said they were surprised the number of garages that are built on or over the property line.

Mr. Gutoskey said you are trusting the GIS.

Mr. Lateulere said that is true.

Mr. Gutoskey said he looked at your little sketch there.

Mr. Lateulere said it would have to be off in all directions because some of them are close to the west property lines and some of them are close to the east lines.

Mr. Gutoskey said but the other thing too is you don't know if you are seeing overhangs, that is a problem.

Mr. Barr said he knows he has sat in that parking lot this winter with his kids and asked if construction on the front has already been started or was that the house one or two towards the road.

Ms. McIvor Bowser said no we been under construction since the second week of December.

Mr. Barr said so you were out there working on the front porch.

Ms. McIvor Bowser said yes.

Mr. Barr said okay he knows where you are at, he is familiar now.

Ms. McIvor Bowser explained that there will be a loft and they went from a 4 pitch to a 12 pitch because her tallest ceiling was 6'-3/4" inside so they changed the pitch.

Mr. Gutoskey asked Mr. Lamanna if he wanted to do an affidavit to join the two lots because there are two parcels here. He said that little strip there from his recollection, there was some kind of court case because the way the stream split the lots the person on your lot went to court to have it, he doesn't know if it was adverse possession or what it was, it got attached, taken off the one lot and attached to the other, that is why that strip is there because it follows the edge of the stream. He said there is a second legal description in there.

Mr. Lateulere said if you read the survey you can see the initials of the person that surveyed it.

Mr. Lamanna stated that you heard the discussion with the other applicant about filing an affidavit of fact to basically join those two lots together so people have record notice that they are being treated as a single lot, there is a form for that.

Mr. Gutoskey said he didn't know if you included that piece in when you did the lot coverage calculation.

Mr. Lateulere said he didn't know if they did or didn't but they comply with the lot coverage.

Mr. Gutoskey said it wasn't an issue and he looked at that.

Mr. Lamanna said the board needs a description of where the encroachment points are on the riparian and we can just make reference to the drawing so the board will grant a variance to the distances shown on this drawing because they are all pretty well labeled here as to where the existing house is, the footer.

Mr. Lateulere said and the stream.

Mr. Gutoskey said they are going to revise the drawing too so those dimensions are going to change a little bit so we should say based on the drawing submitted to the zoning inspector with the revisions we asked for.

Mr. Lamanna said right but those two points aren't going to change but the final will be as these structures are shown in the drawings because we just have these three points now.

Mr. Gutoskey said we will just put in the motion what we talked about it as an urban channelized stream.

Mr. Lamanna said and this is not going to change the character.

Mr. Gutoskey said and they do have the erosion control from Soil and Water, it is in the packet.

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

Motion BZA 2023-4 – 7125 Cedar Street

Mr. Lamanna moved to grant the applicant the following variances.

1. A variance to the front setback from Cedar Street from 30' to 20' which is the existing setback of the structure.
2. A variance for a side setback on the east side of the property from 10' to 3' as measured by the actual foundation wall structure along that side with a permitted overhang of up to 6".
3. A riparian setback which will be determined based upon the final plan submitted and based upon the points of the back corner of the existing house being 12'-8" from the riparian.
4. The setback to the corner of the deck area being 6'-9" and the back corner being no closer than 1' of the garage being 1' to the riparian.
5. The final plans will show the other dimensions which will show the encroachment of the garage, the connecting location and the deck so it will have the siting of the full structure location variance within the riparian setback.
6. The board notes that there is currently a driveway encroachment on the adjacent property to the east which the applicant has agreed to remove and the driveway will maintain the 2' requirement.
7. Finally there is actually a second parcel here that represents the inclusion of the stream, actual stream bed on this property and the applicant has agreed to provide an affidavit of fact as a form required and satisfactory to the township prior to obtaining the zoning certificate.

Based on the following findings of fact.

1. The reason for granting this variance is a practical difficulty.
2. This is a very small lot and also has a significant stream passing through it which limits the area which one could actually build and construct on it.
3. The existing structure is absolutely very small and the existing garage is already only 5' from the side line so this is a small increase in the encroachment.
4. The existing structure has already encroached into the riparian setback and so the slight additional structure increase in there is not going to adversely affect the riparian.
5. It is an urbanized riparian and part of it is already channelized on this property so that any of these changes that are being added in will not adversely affect the riparian in this area.

Mr. Lewis seconded the motion.

Vote: Mr. Barr, 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 8:15 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: April 20, 2023

AUDIO RECORDING ON FILE

Bainbridge Township, Ohio
Board of Zoning Appeals
March 16, 2023

The regular meeting of the Bainbridge Township Board of Zoning Appeals was called to order at 8:15 P.M. by Mr. Michael Lamanna, Chairman. Members present were Mr. Brent Barr, Alternate; Mr. Joseph Gutoskey; Mr. Todd Lewis and Mr. Emeil Soryal. Mr. Ted DeWater was absent. Mr. Steven Averill, Zoning Inspector was present.

MINUTES

Mr. Gutoskey moved to adopt the minutes of the February 16, 2023 meeting as written.

Mr. Lewis seconded the motion.

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

NEW BUSINESS

Mr. John Lateulere, Zoning Commission Chair met with the Board of Zoning Appeals to discuss proposed zoning amendments, the proposed Land Use Plan update and a date for a joint meeting between the two boards.

APPLICATIONS FOR NEXT MONTH

Application 2023-5 by Dan Johnson for property at 8835 Taylor May Road

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

Application 2023-6 by Jeff Lewandowski for property at 18320 Geauga Lake Road

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

Application 2023-7 by Lawrence Musarra for property at 7061 Pine Street

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

Application 2023-8 by Kurt Princic for property at 7502 Samuel Lord Drive

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

Application 2023-9 by Mike and Linda Kerchenski for property at 8610 S. Spring Valley Park Drive

The applicants are requesting area variance(s) for the purpose of constructing an attached garage addition. The property is located in a R-3A District.

The Bainbridge Township Board of Zoning Appeals set a public hearing on the above applications for April 20, 2023 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 8:50 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: April 20, 2023