

Bainbridge Township, Ohio
Board of Zoning Appeals
October 19, 2023

Pursuant to notice by publication and ordinary mail, the public hearing was called to order at 7:05 P.M. by Mr. Michael Lamanna, Chairman. Members present were Mr. 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.

Application 2023-19 by Rev. John Wahl for the Valley Presbyterian Church for property at 17560 Chillicothe Road

The applicant is requesting a review and renewal of an existing conditional use permit. The property is located in a R-3A District.

Reverend John Wahl was present to represent this application.

Mr. Lamanna swore in Reverend John Wahl and he let the record reflect that Reverend Wahl was duly sworn.

Mr. Lamanna asked if there is anything new going on, any changes or modifications.

Reverend Wahl testified by saying no, they have the church pre-school and the resale store. He said there is a parcel that has a house on it and the house is not currently occupied right now.

Mr. Lamanna asked if there are any issues with this property, reports, non-compliances.

Mr. Steven Averill, Zoning Inspector testified by saying he didn't see anything.

Mr. Lamanna asked if anybody has any questions or comments or if anybody else here has an interest in this application.

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

Motion BZA 2023-19 – 17560 Chillicothe Road (Valley Presbyterian Church)

Mr. Lamanna moved to grant the applicant a renewal of the existing conditional use certificate for a period of five years commencing on the date this decision becomes final. This conditional use will continue with all conditions that have been previously imposed with respect to this certificate and also to all of the applicable general provisions of the zoning ordinance as it relates to conditional uses generally.

Mr. Lewis seconded the motion.

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

Application 2023-20 by Eliza Jennings, Inc. (The Weils) for property at 16695 Chillicothe Road

The applicant is requesting a review and transfer of an existing conditional use permit. The property is located in a R-3A District.

Mr. Dale Markowitz, Attorney for the applicant and Mr. Rich Boyson, Jr. of Eliza Jennings were present to represent this application.

Mr. Lamanna swore in Mr. Dale Markowitz and Mr. Rich Boyson, Jr. and he let the record reflect that Mr. Markowitz and Mr. Boyson were duly sworn.

Mr. Dale Markowitz testified that he is here on behalf of Eliza Jennings Inc., they are under contract to acquire The Weils of Bainbridge which as you have on the screen here it has an assisted living facility, a number of C-O-N (Certificate of Need) beds and most of you were on the board for all of the various conditional use permit amendments that we did and he thinks of this as one of his babies. He said he started this project many years ago with some folks from what was then the Montefiore Housing Corporation and Montefiore merged with Menorah Park and Menorah Park has come to the conclusion that it doesn't fit into their current vision and plans and mission because of demographic changes because of changes that have occurred in the industry and they searched around for a buyer and very fortunately he was aware of Eliza Jennings before they came around but Eliza Jennings is an extremely highly regarded participant in this field. He said their facilities that are in three different locations, more so on the west side and they decided that this did fit into their mission to take over a facility on the east side of the Cuyahoga River and so they engaged his firm and himself to assist them. He said they looked at it right away and said their timing is perfect because we were about to file an application with the township to renew their conditional use permit because it is up for renewal next month so their application today is to permit the transfer as well as to renew the permit for five years. He said when they filed the application they indicated to you and he knows Mr. Lamanna remembers when this first got approved and he thinks you established the Markowitz rule that you wouldn't start meetings after midnight.

Mr. Lamanna said yes, no new applications would start at 11:00 P.M.

Mr. Markowitz said he went back and looked at the minutes from the 1990s and as one of the conditions of approval we had said we didn't know at the time if we were going to go for a tax exemption but if we did we would agree to pay the township the amount of taxes that you would have received if we didn't have the exemption. He said he was asked to write a letter, he did in February of 1999, he wrote the letter to the township and that became incorporated into your approval and since that time the township requested that what was then Montefiore also pay in the amount of taxes that would have gone to the library and the reason being is that there were a number of very avid participants of going to the Bainbridge branch or library from The Weils so they felt it was only fair that they should pony up those taxes and Montefiore said fine so that became an additional element of the PILOT payments which is Pay In Lieu of Taxes. He said when they filed their application with the board for the transfer and for the renewal we indicated that we would agree to do the exact same PILOT with the same terms and we would be willing to enter into an agreement with the township which is actually something that Eliza Jennings came to him and said why don't we do an actual written agreement rather than just go on a letter written from 1999 so Mr. Jeff Markley on behalf of the trustees has worked with us along with Ms. Linda Applebaum, the Assistant County Prosecutor and today we worked out the final language. He said we had an agreement in place actually as of last Friday or Monday but we didn't know the tax allocations amount and we finally got that and once we finally got them we all looked at it and we all realized that the numbers were different depending on which county chart you looked at and let's just say what it is it is so whatever the county tells us it is, it is and we also know now that there is a very significant increase in valuation that has occurred countywide and in the township there is a significant increase so the amount that would be paid by Eliza Jennings will go up proportionally because the amount they pay is based on the evaluation and even though you may not have to pay taxes they still do an appraisal on exempt properties, just like all of the township buildings get appraised so our tax bill for the township is going to go up significantly. He said he spent some time trying to verify that there were no issues and he talked to the folks at Menorah Park and he talked to the township and there have been no complaints regarding The Weils, it has been a well run facility. He said the facility has always been looking out for the community, it has provided numerous lectures and opportunities for education for medical, Medicare and those kinds of things and they have offered at various different times, if somebody needed to have a flu shot or whatever, Eliza Jennings has a very similar mission, he will stop talking in a second and Mr. Boyson will take over but that is the same kind of continuity that they expect to have there.

Mr. Rich Boyson, Jr. of Eliza Jennings testified by saying that was a beautiful introduction and he thanked Mr. Markowitz. He stated that he appreciates being here today and getting them on the docket as quickly as you all did and the agreement that they hammered out and as he mentioned he is the President and CEO of Eliza Jennings, he has been there a total of about 15 years, 8-1/2 years as their CEO.

Mr. Boyson continued by saying as Mr. Markowitz mentioned they are a long standing not-for-profit and is slightly older than Menorah Park but he thinks just by two years, they are a 135 year old organization and when you cross the Cuyahoga you probably don't know because we are all on the west side of Cleveland but we have three very nice communities, one in Olmsted Township, one in Westlake, Ohio and one in Cleveland which is our flagship community. He said they have a great relationship, senior living tends to be a burden on EMS so when we saw there is a PILOT agreement we said absolutely it makes sense to just continue what Montefiore and Menorah have been doing all along so we currently serve about 510 residents in all level of care in assisted living and skilled and we have maybe another 250 that we serve in the greater community and in our home community based services we do home health and hospice and adult aid and he served with 15 other volunteer governing board members. He said one of our founding principles and built into our mission statement, one of the things we have done for 135 years is no matter what a resident's financial situation, once they are with us, once they are in one of our homes they have a place for life and we will continue and honor that here at The Weils which we are going to be rewriting as Eliza at Chagrin Falls.

Mr. Gutoskey said you know you are in Bainbridge Township, right.

Mr. Boyson said Chagrin Falls is the address though.

Mr. Gutoskey said we are the stepsister of Chagrin Falls, it is a very nice place to live.

Mr. Boyson said absolutely. He said again, their organization has been around for a very long time, his senior leadership team has an average tenure of about 20 years, our board of trustees have all been around for 15 to 20 to 25 years so we are a very reputable provider if you look at any of our star quality, our ratings, our resident satisfaction we really do perform very well compared to our peer group so we are very excited to be here in the township and again appreciate Mr. Markowitz kind of paving the way on this agreement to get us here.

Mr. Markowitz said that Mr. Boyson has signed the PILOT agreement, we gave it to Linda Zimmerman at the request of Mr. Markley and it will be presented Monday night at the trustee meeting for a signature by the township.

Mr. Gutoskey said he had a question, it looks like in 2006 you added 21 beds, in 2008 - eight beds, 2014 -18 memory care beds, and asked if they have any plans for any expansion or anything.

Mr. Boyson said certainly not right away, they want to operate the community the way it is, 75 traditional, 18 memory care and 29 skilled so he would say for the first two years they are planning on operating it the way it is. He said they understand there are some wetlands and some different things, they are not interested in jumping into anything major construction wise.

Mr. Lamanna asked Mr. Markowitz if there is anything open.

Mr. Markowitz asked if he means is there more room to build.

Mr. Lamanna said no, anything that is not yet built. He said he thought the board approved a few things originally that weren't done.

Mr. Gutoskey said just going through the other conditional use applications.

Mr. Lamanna said per the site plans there may have been some expansion.

Mr. Markowitz said they had that H style, yes there are more units that could be built.

Mr. Lamanna said the board never actually approved it.

Mr. Markowitz said the thought always was where the parking lot is there could be more units up there and then they would build another parking lot. He said there was never enough of a demand to need to add it and also if you remember the Lantern up in S. Russell got built so that picked up some of the demand as well. He said the facility as far as he knows has always been generally full but no one ever saw the need there to expand but who knows, we are all getting older.

Mr. Lamanna said the demographics and the population getting into those age groups. He said he thought they had done all of the buildings that had been approved.

Mr. Markowitz said all that they had submitted for has been built.

Mr. Lamanna said yes but we always knew that there was still room here for expansion.

Mr. Markowitz said he remembers that the Memory Care is the last thing we did and before that we got the C-O-N license from Geauga Hospital and added some beds, he is not sure what they would call it today but it was licensed to us for people who needed more care.

Mr. Lamanna asked Mr. Steven Averill, Zoning Inspector if there are any issues.

Mr. Averill testified by saying no.

Assistant Fire Chief Bill Lovell, Bainbridge Township Fire Department was present to represent the Fire Department.

Mr. Lamanna swore in Assistant Fire Chief Bill Lovell and he let the record reflect that Assistant Fire Chief Lovell was duly sworn.

Assistant Fire Chief Bill Lovell testified that obviously with the change we have some concerns. He said as of this year we have been there 164 times which out of 1,782 calls that is roughly almost 10% so any changes that could take place would be significant in the service that we have to provide and we are already strapped as far as to how many people we have versus other coverage so he just wants to make sure that we at least have the same understandings and have it on the record of what service we provide, we are emergency service that provides emergency service, we can't be supplementing staff, we can't be counted on to replace the private ambulance with long delays with a private ambulance, after all the people are in a skilled nursing facility already and we don't want to be called for lift assists and things like that.

Mr. Boyson said sure.

Assistant Fire Chief Lovell said some facilities take advantage of the EMS that way and we had a wonderful relationship with The Weils we just want to make sure and it be put on the record that that is maintained and at the same time the Skilled, is that considered the Memory Care.

Mr. Boyson said no the Assisted Living level with Memory Care is 18 units and the Skilled Nursing is 29 beds.

Assistant Fire Chief Lovell asked if that is the re-hab.

Mr. Boyson said yes, one in the same.

Assistant Fire Chief Lovell said and there are no immediate plans to make changes in those numbers as far as a percentage wise.

Mr. Boyson said no, they have no plans to do so.

Assistant Fire Chief Lovell said those are the questions he had.

Mr. Boyson said thank you and good to meet you.

Mr. Lamanna asked if there is anyone else here who has any interest in speaking on this.

Mr. Lamanna swore in Mr. John Miller and he let the record reflect that Mr. Miller was duly sworn.

Mr. John Miller of 8621 E. Craig Drive testified that the reason he is here is he knows that you had said that there are no concerns with zoning and he knows that the board might recognize him, he recognizes the board and we have been here up to 17 years we have been trying to work with The Weils and follow through with a few things and he knows when he moved into his home 22 years ago the people he bought it from were working with The Weils to get the driveway lights corrected because the lights are not supposed to be the bulb below the surface and we talked about that the last time we were here and he doesn't know if that has been resolved.

Mr. Averill said he didn't see that in the notes from the last hearing.

Mr. Miller said he knows that that was a board meeting and they were supposed to resolve that along with, remember when we had the sign, they wanted to build a new sign and what did we offer, 36 sq. ft. for the signs out in front of the building and they came and said they were going to reduce it because they got a zoning permit then and it actually, the permit they had was for 38 so they actually went above and beyond what was permitted, it was corrected later but, he guesses he is asking accountability from The Weils and our township that it took 10 years before we even knew that the sign was not to the permit because it was never inspected.

Mr. Soryal asked Mr. Miller if the lights are a problem for him.

Mr. Miller said his house is right there so the lights go back there especially in the winter. He said he talked with other neighbors and showed the board on the displayed aerial the location of his property and he talked with other neighbors that are down through here and they also see that. He said he sort of represents his neighborhood sometimes because some of them aren't coming up here or want to learn how it all works.

Mr. Soryal said they are afraid of us.

Mr. Miller said it could be, he doesn't know, everyone is nice here we have a nice conversation.

Mr. Gutoskey asked Mr. Miller if that is his lot there.

Mr. Miller said it is right here.

Mr. Gutoskey asked Mr. Miller if those are trailers on his lot, what is that.

Mr. Miller said this is wood and a tractor.

Mr. Gutoskey said gotcha. He said the way the code is set up it is based on cut-off lighting so the light basically shines down on the ground and it doesn't trespass on the ground passed the property which he is assuming is what you have right now.

Mr. Markowitz said he thinks it got built before you had the cut-off lighting in your code. He said some of those light bulbs were replaced so some of them probably comply with the current code.

Mr. Gutoskey said you will still see the light but it would not trespass onto your property.

Mr. Miller said it would be like a cone, it would come down and you would still see the light or haze versus and he hates to say it, he knows this wasn't an example you guys actually said but if you look at your parking lights out here the bulb is down below and it lights up the whole area but he is just asking because we had talked about this for many years and then we also talked about the drainage the property maintaining the waterflow through here, that was 16 years ago he came up here or 15 years ago with his wife and the water couldn't flow properly so it flooded his yard and his septic system so when his wife was pregnant she couldn't even flush the toilet so that is in the past but we had called Evan but he has left now because he said the last time we were here to just give him a call and he was very easy to talk with and he actually took his calls. He said he is just trying to see if we can have some of these things resolved since it is an opportunity with the new owner and it sounds like they are very anxious to make things right and provide a good service to the township.

Mr. Markowitz said he understood that the drainage issue on The Weils property is not a problem anymore that there was a correction there. He said your lot had quite an issue before the Weils was built.

Mr. Miller and Mr. Markowitz discussed the drainage and wetlands issue.

Mr. Miller said working with the county they have been able to get some things fixed on their street so the water is not causing flooding in the front yard anymore so maybe it is working out fine and it is a good balance. He said he enjoys all of the wilderness and the wildlife and we shouldn't disturb that part, he is just asking that some of the things we have brought up over the last decades that we can have those resolved and it is a new start.

Mr. Lamanna said just going back to 2014, in the February 20, 2014 approval of the Memory Care facility there was a requirement to review the existing lighting fixtures to see if they were properly installed and performing in accordance with the cut-off specifications.

Mr. Markowitz said if they are not we will conform.

Mr. Averill said that goes back to 1999 and if it was brought up in 1999 he assumes it would still be in effect now.

Mr. Markowitz said they certainly have no objection to that being included as a condition and conform but from what Mr. Miller is saying it is probably not.

Mr. Lamanna said you get into these questions about people looking at lights and somebody says they can see the light or they can see the bulb well there is a major difference between being able to see a bulb and being able to be in your room in your house and stick your hand up and see the shadow of your hand on the wall because you can see a light at a tremendous distance, your eye can see a light at a tremendous distance but it will not in any way illuminate so that you can consciously tell illuminate objects 500' away or if you are laying in your bed if you can see shadows on the wall coming from the light.

Mr. Lamanna continued by saying he has a neighbor who has a really bright post light way too bright and it shines in he can go over and stand at his wall and put his hand up and he can see the shadow of his hand so that is probably far too bright of a light to be having and it is shining straight out and it is right across the street so it is maybe 80' away. He said that is the difference, if you look out at something you will often see light but the question is, is it really shining at you or are you just seeing reflective light.

Mr. Miller said just like gas stations, they have recessed lights up above and all of the light pollution those cause, those are really bright and this is somewhat textured.

Mr. Lamanna said the same thing is happening here is that there is a reflector up there to try to push all of the light down. He said they did agree to look into it, it doesn't seem to be a mind burning issue here.

Mr. Miller said it has been since 2014 and it hasn't been resolved.

Mr. Lamanna said it is hard to know whether it has been resolved or not and one of the difficulties is, sometimes somebody looks into these things and they see they are okay but it doesn't often get reflected in the file.

Mr. Soryal asked how far the back of the house is to the road or driveway because he is curious where these lights are.

Mr. Averill said about 500' but regardless the light fixtures are supposed to be full cut-off.

Mr. Lewis said so Eliza Jennings will make any corrections that need to be made.

Mr. Boyson said yes.

Mr. Lamanna said they may have something that was not lined up straight when they put it in or sometimes over time the poles lean, the cement in the ground moves around by the frost and then you end up with something that is leaning a little bit so sometimes there are physical changes that take place over time and nobody notices.

Mr. Miller said yes.

Mr. Gutoskey asked if it is a couple of light poles or lights on the building.

Mr. Miller said poles and he usually doesn't see the building because there is an earth mound behind him and he appreciates the board listening and understanding. He said his next door neighbor, he put a garage on and a deck on and the zoning inspector was out there five times just to make sure that he put his deck in the right spot and followed all of the rules so he would think a multi-million dollar organization could do the same.

Mr. Lewis said continuation of pre-existing conditions.

Mr. Gutoskey said welcome to Bainbridge.

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

Motion BZA 2023-20 – 16695 Chillicothe Road (Eliza Jennings)

Mr. Lamanna moved to grant a transfer of the Conditional Use Permit to a new owner, Eliza Jennings, Inc. The conditional use, which is up for renewal, will be extended for a five year period which will commence on next month when the minutes are approved (November 16, 2023).

Based on the following findings of fact:

1. The applicant will look into the issue of cut-off lighting on the roadway in because no one can be quite sure what happened to a 2014 discussion of this situation, but they will look into it and make sure that the lighting is performing to the cut-off requirements applicable to them.
2. The board is granting this transfer because the proposed transferee appears to be a well respected and confident operator of these types of facilities and has given us full assurances that they would satisfy the matters applicable to this conditional use that was previously set forth specifically in the approvals as well as those that are generally applicable.
3. The new applicant, the board notes, has signed an agreement with the township with respect to this facility for the “Payment In Lieu of Taxes”.
4. There are, other than the lighting question, certainly no significant situations involving complaints based on improper operations of the facility.
5. There are no other changes proposed that would change the nature or character of this facility so therefore the board should approve this transfer and extension of the current conditional use permit.

Mr. Gutoskey seconded the motion.

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

Application 2023-21 by Parkside Church for property at 7100 Pettibone Road

The applicant is requesting a review and renewal of an existing conditional use permit. The property is located in a R-5A District.

Mr. Michael Bowerman of Parkside Church was present to represent this application.

Mr. Lamanna swore in Mr. Michael Bowerman and he let the record reflect that Mr. Bowerman was duly sworn.

Mr. Michael Bowerman testified that the church is requesting a renewal of their conditional use permit.

Mr. Lamanna asked if anything new has been going on, any issues that he is aware of.

Mr. Bowerman said it has been quiet for a while, they have been stable and as you know they have done a lot over the years and they are busy ministering and all surviving through COVID as churches had challenges but we still have a school that meets there and there are no new facilities. He said they haven't changed the parking lot or built anything more, the congregation fell off for a period of time and now it is building back up and stable and active and busy in the community.

Mr. Lamanna asked if there are any complaints he is aware of from the neighbors.

Mr. Bowerman said no, the neighborhood has been quiet from their perspective.

Mr. Lamanna said he knows we had the thing with the gate on Root Road.

Mr. Bowerman said yes and that has been closed for a number of years now and the neighborhood has been friendly.

Mr. Gutoskey asked if there is anybody in the audience that has questions on this.

Mr. Steven Averill, Zoning Inspector testified that the only question he had is about the school.

Mr. Bowerman said with him here is the Facilities Manager Mr. Steve Coiro and the Principal of the school Ms. Pam Larison. He said when the school was first registered and permitted on the property it was a non-chartered school in the State of Ohio, it was a private parochial religious school. He said they have made the decision to now become a registered school and as such the state requires that they be zoned in an educational capacity and so that began their inquiry with the zoning inspector to see if there was such a designation in Bainbridge that they needed to achieve so that they could proceed with their approval of the status with the state.

Mr. Lamanna said he thinks he would say that as long as the conditional use permitted a school that that makes it qualified under zoning, that it was legitimate. He said educational facilities are allowed as a conditional use so since you are a broader conditional use but within that there is an approval for a school. He said maybe the board could tinker with the description if you wanted to change the description. He asked if it is going to have a more official name.

Mr. Averill said the school is ancillary to the church.

Mr. Lamanna said right.

Mr. Averill said she wanted to know if there is a way for her to become a primary use, she would have to submit an application to become a conditional use on her own, at least it appeared that that is what she would have to do, so really it is up to her the direction she wants to go. He said the question he had was she said the school was going to be moving within a year.

Mr. Bowerman said yes, they had plans, they have purchased some property and they are beginning to plan and eventually they will move out in about a year's timeframe.

Mr. Averill asked about another school.

Mr. Bowerman said they have no plans at the present time, no.

Mr. Gutoskey said in 2017 the board approved it for 12 classrooms.

Mr. Averill said as an ancillary to the church.

Mr. Lamanna said right and here is where the rubber meets the road is that the school is going to be a separate entity, if it is going to become a charter school, will it become a separate organization, it probably has to become a separate non-profit organization.

Mr. Bowerman said eventually, yes, their own entity.

Mr. Lamanna said so it is kind of a moot point. He said for what they are doing now they are certainly okay as long as they are operating in your auspices.

Mr. Bowerman said yes.

Mr. Lamanna said he thinks what is going to happen, it sounds to him though that they are going to have to create themselves as a separate legal organization if they are going to be a charter school.

Mr. Bowerman said okay.

Mr. Lamanna said then he thinks we would probably have to have a separate conditional use because at that point in time you are probably going to have some kind of a lease/license agreement with them to use the property and obviously there would have to be some liability and insurance issues that have to be into that so if the long term plan was for them to be there, there wouldn't be an issue, it could be accommodated but for their purposes and our purposes we have to jump through the hoops and make the documents all be copasetic so that they've got their own separate conditional use and we would have to go through that but if they aren't to the point yet where they are going to actually do that then he would say just leave it alone for now but if plans change and they decide that they want to collocate with you and still go down that path we can handle that but it is going to just require a separate additional application for a conditional use on that property by whatever the new entity was.

Mr. Bowerman said okay.

Mr. Lamanna said that is how we would handle it, it would just become a second conditional use on the property with a different named party under a lease agreement or whatever kind of agreement you ultimately came up with, with the owner of the property so that is how we would handle it if we go down that road so if that became the plan that is the way to handle it, just wait and let them create their own application for a conditional use.

Mr. Averill said so for clarity the existing school would be leaving in approximately a year and if they leave and a new entity comes in, another school comes in, would they have to come back.

Mr. Lamanna said it is still under them, if a different school came in and they wanted to do the same the thing then they would have to do that too but if they just decided that this thing moves out and a year later they decide that they constitute their own school again because they want to do something different maybe, they may want to have a little different orientation of what the other place is doing, they would be free to go back to do that again.

Mr. Averill said so don't worry about it.

Mr. Lamanna said there is nothing to worry about at this point, he thinks if they get to a point where it looks like they are actually going to constitute and be there long enough to actually try to become a charter school then he thinks we would address that with a new application by the new entity and they would set their own conditional use for educational purposes on that property.

Mr. Bowerman said so the school needs to do the charter prior to leaving Parkside and they would come back and make a separate application.

Mr. Lamanna said right and the new entity would do that, he thinks that is the easiest way to handle it, he doesn't want to create unnecessary paperwork but when you reach that point when you have to do it then we can figure out how to do it.

Mr. Bowerman said that makes sense, so then all existing pre-approved conditional uses would be rolled over.

Mr. Lamanna said the already previously approved uses would continue.

Mr. Averill said as long as there is no expansion.

Mr. Lamanna said as long as there is no expansion, yes. He said obviously we would approve the development plan that says this is what you are going to do and you are good to do that. He said there may be some things in there, he thinks there are that have been approved but actually have not been implemented, there may be one or two things that you thought you were going to go ahead with but didn't but again, once those are approved that approval continues on so if you obviously want to change the plans then you would have to come back and revisit it but if you decide that you already had approval to build this and now you are going to actually build it then you are good to go on that.

Mr. Bowerman said very good.

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

Motion BZA 2023-21 – 7100 Pettibone Road (Parkside Church)

Mr. Lamanna moved to extend this conditional use permit, renew it for a period of five years commencing on the date that the minutes of this meeting become final.

Based on the following findings of fact.

1. All of the previously approved imposed conditions and all of the general conditions applicable from the ordinance with respect to conditional use permits will continue to remain in effect.
2. The board does note that the issues from the previous renewal appear to have been well satisfied and there are no outstanding complaints regarding this conditional use.

Mr. DeWater seconded the motion.

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

Application 2023-22 by Dan DiCillo for property at 8757 Lake Forest Trail

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

Mr. Dan DiCillo, property owner, was present to represent this application.

Mr. Lamanna swore in Mr. Dan DiCillo and he let the record reflect that Mr. DiCillo was duly sworn.

Mr. Dan DiCillo testified that they have a home in Bainbridge that they have been living in for about nine years and they have decided to make some changes mainly centered around their lack of storage. He said they have no basement so although there is room in the garage for his car there is not room in the garage because of the stuff they have stored in the garage. He said most of what they requested in their plan has to do with adding current living space that becomes usable for storage and also space above the garage that would become usable for storage as well. He said essentially with the change that they made they overstepped the coverage ratio and he supposes the left side or the corner of their garage apparently is and was built inside the setback of 15' and so one of the changes they want to make is add space on the second floor of the garage up into the attic because of the pitch of the garage takes away some of the space on the car level side so in adding that space apparently they have added or again overstepped the 15' setback requirements.

Mr. Lamanna asked if this is finished space or are they going to raise the roof.

Mr. DiCillo said yes the plans call for peeling that off and raising the roof.

Mr. Lamanna said but the same footprint of the foundation. He said the board would want to take care of that anyway because otherwise you would have the potential that at some point you go and sell your property and invariably somebody will notice this and then you will be scrambling in here to try to get a variance because your closing is coming up in a few days so the one thing we do is, some of these people get a little concerned but, when we get this thing in here we want to make sure that we cover everything that could possibly need coverage and evaluate it and decide what to do because when somebody comes in here we want to make sure when they walk out of here they have got no zoning issues, we want to make sure you have no zoning issues for everything we have looked at and discussed and could act on, we want to get this done in one trip for you and for us.

Mr. DiCillo said he appreciates that and the other part of the plan includes adding a room to the back corner and in doing that the deck gets pushed out and it is apparently now they are slightly below the coverage ratio.

Mr. Gutoskey said that was his question, he wanted to know what the extra 200 and some sq. ft. or whatever it is.

Mr. DiCillo said effectively they are pushing the deck back because they are adding a room underneath that. He said the room they are adding has a basement so they are adding some square footage which takes them over the lot coverage.

Mr. Lamanna asked Mr. DiCillo if he submitted this to Tanglewood HOA.

Mr. Gutoskey said there is an approval in the packet and it was approved last May and Geauga Soil and Water approved it. He said he doesn't see it being a problem plus the deck will have slats in it and the water will get down into the ground.

Mr. Lamanna said he has one of the bigger lots.

Mr. DiCillo said he doesn't feel that way and the lakeside corner is cut off because of the creek.

Mr. Gutoskey said that is where the riparian comes down through there.

Mr. DiCillo said they hoped that it would be viewed as a rather minor issue.

Mr. Gutoskey asked if there is anyone else here that has any questions.

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

Motion BZA 2023-22 – 8757 Lake Forest Trail

Mr. Lamanna moved to approve this application with respect to making additions and modifications to an existing structure in accordance with the plans that have been submitted by the applicant.

1. The board notes that one of the changes includes a change to the existing garage. The west side setback for the existing garage was built originally at only 10' and therefore a variance will be granted for the setback of the existing garage to that actual 10' for the corner of the garage on that side.
2. With the addition that is going to be added and the relocation of the deck as it used to be in a place where the addition is being added, there will be an increase in the permitted lot coverage of 244 sq. ft. which is set at 30%.
3. A variance to the lot coverage to a total of 7,379 sq. ft.

Based on the following findings of fact.

1. Given the small size of this lot and the fact that this increase in lot coverage is just slightly in excess of 1% it is not significant and also will not adversely affect the neighboring property owner nor will it in any way change the character of the neighborhood.
2. The board also notes that this has been approved by the Architectural Review Board of Tanglewood Lake Association.

Mr. Lewis seconded the motion.

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

Application 2023-23 by James A. Alesci for property at 8144 Chagrin Road

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

Mr. James Alesci and Mr. Frank Alesci were present to represent this application.

Mr. Gutoskey said there wasn't a drawing in the packet so this is what we have, this is the structure they are building and it was over the property line from what Mr. Averill said so they are adjusting the property line. He asked Mr. Averill if they are just going to have one driveway coming back there and they are going to disconnect the other drive.

Mr. Steve Averill, Zoning Inspector testified by saying yes.

Mr. Gutoskey asked if the building went over the property line and they adjusted the property line.

Mr. Averill said yes, it still has to be executed.

Mr. Gutoskey said it still has to be done but they discovered it as part of the survey.

Mr. Averill said Mr. Rudy Schwartz did the survey.

Mr. Lamanna said we are going to have two lots here and a flag down here.

Mr. Frank Alesci testified by saying yes.

Mr. Gutoskey asked if this is for storage or is it another garage.

Mr. Frank Alesci said it is for cars and to hang out.

Mr. Gutoskey said so you will have garage doors.

Mr. Lamanna swore in Mr. James Alesci and Mr. Frank Alesci and noted for the record that Mr. James Alesci and Mr. Frank Alesci were duly sworn.

Mr. Frank Alesci said before they moved in, they moved in one at a time, it was one property, hence the driveway in the middle of it.

Mr. Gutoskey asked if they split it and built another house.

Mr. Frank Alesci explained how his father acquired the property and that it was always their dream to live next to each other. He said the driveway was always there.

Mr. James Aleksi said it was the original driveway for 8144 and then they put a street driveway in.

Mr. Frank Aleksi said there is some gravel that you can see.

Mr. Gutoskey said so you didn't get a permit from zoning.

Mr. James Aleksi said they had Amish guys and we didn't ask the right questions, they said we didn't need a permit, we build these all of the time.

Mr. Lamanna said they build them out in Middlefield Township where there is no zoning.

Mr. Lewis asked how did our zoning department find out about this structure being half built.

Mr. Averill said the neighbor called.

Mr. James Aleksi said his neighbor called.

Mr. Lamanna said so this is 128 sq. ft. over the maximum accessory building size.

Mr. Gutoskey asked Mr. Averill about what he said about them adjusting the property line.

Mr. Averill said you can see that triangle, that is the lot split and then they will consolidate it with the rear lot.

Mr. Gutoskey asked where the septic is located.

Mr. Frank Aleksi said their property is not flat, it is all riparian, they have a big creek in the back so the septic and leach field is right here (he referred to the displayed aerial of the property).

Mr. Gutoskey said looking at the topo there is really no way to build this building behind the house.

Mr. Frank Aleksi said this is absolutely a cliff right there, you would fall down it.

The board discussed the front lot line.

Mr. Lamanna said this is why you have variances because this is a situation that no one could have ever anticipated.

Mr. Gutoskey said with the riparian and topography he can't really see anywhere else they could have put it.

Mr. Lamanna said they are technically in front of the house but practically they are not because that front line is not on a street, the requirement doesn't mean anything for this particular lot in this particular configuration and then the other thing is where it is 128 sq. ft. over which he thinks is less than 1%, we are back to the de minimis rule.

Mr. Gutoskey said he doesn't see anyone in the audience except the applicants.

Mr. Lamanna said when we do have these large accessory buildings we want to make sure that it is clearly on the record that you understand that you cannot use this as a residence.

Mr. Frank Alesci said no.

Mr. Lamanna said nobody can reside in it, you can't fix it up to be for residential purposes and the second thing is you cannot run a business out of there unless it qualifies as a home occupation per our code so we just want people to make sure that they understand and it is clearly in the record that if anybody goes and looks and we have had people come in and say they didn't realize they couldn't do X,Y and Z so we want to make sure that everybody is clear because you've got a structure that is as big as a small house basically so we worry that somebody might get the idea that they may want to do something different so again, no other questions.

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

Motion BZA 2023-23 – 8144 Chagrin Road

Mr. Lamanna moved to grant the following variances for the purposes of finishing constructing of an accessory building that is already under construction. There are two variances with respect to this construction of the building as shown in the plans submitted.

1. A variance of 128 sq. ft. from Section 135.03(b)(9)(f)(5) from the maximum size permitted of 2,000 sq. ft. to 2,128 sq. ft.
2. A variance from Section 135.03(b)(9)(i)(4)(a) with respect to structures located in front of a dwelling. The board is allowing this structure where it has been positioned as shown on the drawings.

Based on the following findings of fact.

1. The variance is a very small increase in size.
2. It is on a very large lot and it is not close to the road or the adjacent property so that small increase is not going to have any effect upon the neighboring property owners or the character of the neighborhood.

Motion BZA 2023-23 – 8144 Chagrin Road - Continued

3. Even though the accessory building is technically in front of the primary structure this lot it is on is a flag lot so the line that is considered the front property line is really more appropriately a side property line. The line itself is 600 some feet distance from the street.
4. The side yard setback requirements are met with respect to the line that is technically the front property so it is not going to adversely affect the neighboring property, nor will it alter the character and nature of the neighborhood because nobody is going to notice that it is in front of the house given where it is located. This is clearly a case where the application of the literal rule does not make sense with respect to the actual configuration of the lot and location of the building in this case.

Mr. Gutoskey seconded the motion.

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

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Since there was no further testimony, the public hearing was closed at 8:22 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: November 16, 2023

AUDIO RECORDING ON FILE

Bainbridge Township, Ohio
Board of Zoning Appeals
October 19, 2023

The regular meeting of the Bainbridge Township Board of Zoning Appeals was called to order at 8:22 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.

MINUTES

Mr. Gutoskey moved to adopt the minutes of the September 21, 2023 meeting as written.

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 2023-24 by Scott DiMuzio for Goddard School for property at 16706 Chillicothe Road

The applicant is requesting a review and renewal of an existing conditional use permit. The property is located in a (PO) Professional Office District.

Since there was no further business, the meeting was adjourned at 8:40 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: November 16, 2023