

Bainbridge Township, Ohio
Board of Zoning Appeals
January 18, 2024

Pursuant to notice by publication and ordinary mail, the public hearing was called to order at 7:05 P.M. by Mr. Michael Lamanna, Chair. Members present were Mr. Brent Barr, Alternate; Mr. Ted DeWater; Mr. Joseph Gutoskey; Mr. Todd Lewis and Ms. Lori O'Neil, Alternate. Mr. Emeil Soryal 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. Lamanna swore in Mr. Steven Averill, Zoning Inspector and he let the record reflect that Mr. Averill was duly sworn.

Mr. Brent Barr, Alternate joined the board for consideration of the following applications in Mr. Soryal's absence.

Application 2023-17 by Caleb Chou for the Church In Solon for property at 7765 Country Lane - Continuance

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

Mr. Kevin Butler, attorney for the applicant was present to represent this application.

Mr. Lamanna swore in Mr. Kevin Butler and he let the record reflect that Mr. Butler was duly sworn.

Mr. Kevin Butler testified that Dr. Chou who was here in September, 2023, the last time this application was heard and knew he was going to be unable to make it tonight so they have asked me to be here on behalf of the church. He introduced himself and said he is an attorney with the law firm McDonald Hopkins, a law firm in downtown Cleveland. He said it is his privilege to be before you for the first time, he has done quite a bit of municipal and township zoning work and as well as outside counsel and inside counsel to local governments like yours and also has the opportunity every now and again to appear on behalf of a private applicant like The Church In Solon to advocate on their behalf. He said he read through the minutes from September and he was engaged after that and so he had to bring himself up to speed and he saw that there are basically three things that the board had asked the church to do between then and now and he is happy to report to you that we believe we have accomplished those three things, he will get into each of them in some detail but he won't belabor any points the board doesn't want him to belabor.

Mr. Butler continued by saying we think that because we have acted in good faith, we responded both to the resident concerns from the residents who were here before you and your concerns we are entitled to a renewal of that conditional zoning certificate here respectfully. He said he will get into those three items and he will see if he can dispense of the two of them very quickly. He said one of them was a fence, a neighbor showed up and indicated that he did not have any objection to the use of the property as a church and he praised the church as neighbors but he indicated that there was some maintenance issues with respect to the rear fence that needed to be addressed. He said the church immediately did that and he has some photos of it to give to the board that reflects that the fence has been repaired. He submitted the photos of the fence to the board and stated that the photos show that the church fixed that fence. He said the second item is you asked, and this was part of the original conditional zoning certificate, that the county board of health or EPA come out and inspect the septic system to determine whether or not it is properly functioning, that happened right away, there was a reinspection after some repairs were made recently and we have the final report from the county board of health indicating that the system was repaired and it was reviewed for final inspection, repairs were properly made and the system is functioning so hopefully that puts those two particular issues to bed. He said the third item is the slightly more challenging item which is that there has been surface water, storm water that enters the property from the east and is carried from the east end or actually northeast is carried to the west. He said in 2014 the church filed a "Declaration of Restrictive Covenants for Inspection and Maintenance" with the County Soil and Water District's blessing and recorded that with the county and that document that he has here with him tonight is the approved storm water retention system on the property for when the parking lot was installed and when the County Soil and Water was able to review the swales, the retention basins, the culvert pipes etc. He said there hasn't been any indication since then that that document is being violated in any way but there have been legitimate concerns of neighbors that water is being carried off the property onto their property and that is a legitimate concern, they are not discounting that at all and we want to address that and we have addressed it in September and will continue to address it going forward. He said County Soil and Water, Colleen Sharp was there he believes in October there abouts to make an initial inspection to determine whether or not the various retention systems, the swales, ditches, retention basins were being maintained properly and made some suggestions back then for maintenance to occur and the church immediately did that maintenance so that work has been done. He said since then she has been asked to revisit the property during a wet weather event and see how the water now works and how it performs on the property, the surface water, she did that in early January with the rains we got then and just this week made the report that is before you and he knows the board has copies of that report, he did not bring those. He said that report identifies three suggestions for how to address additional storm water issues where water on the parking lot might be carried to what they call the north retention basin which he pointed to on the displayed aerial.

Mr. Gutoskey said he has a copy of the map.

Mr. Butler said which is existing.

Mr. Gutoskey said yes.

Mr. Butler referred to the map and said this is north of the parking lot which sits behind the church home, there is a swale here.

Mr. Gutoskey said it is like a by-pass swale that takes the water coming off from the east and by-passes it through how it used to normally go.

Mr. Butler said what she had some questions on is whether the water that is amassing on the north half of the parking lot is entering into that swale when it should in fact be entering into what she has called the east retention basin and the east swale running along or west retention basin, south detention basin and west swale running along the west side of the parking lot. He said she has made some suggestions, put a berm in for example, earthen or other structure, curbing on the north side of that parking lot to see if that might help direct water into these channels on the west side of the property so that it doesn't ultimately come off the property.

Mr. Gutoskey said and by-pass the storm detention.

Mr. Butler said that is right, exactly. He said he can tell you that the church is very open minded but right now hasn't had enough time because we just got these suggestions from Ms. Sharp to be able to commit to anything right now but other than this, on the record, for the record, they are continuing to work on this issue so that it gets solved one way or the other because that is their property too, they have some water that collects, it doesn't necessarily go anywhere but it collects.

Mr. Gutoskey said between the church building and that back parking lot.

Mr. Butler said that is correct and that water is not a nuisance to anyone else but it is a nuisance to them so they do have a vested interest in figuring these things out but what he can tell you is there has not been any allegation that the church has violated any sort of condition from 2014 from the recorded declarations or storm water improvements and Ms. Sharp has been terrific to work with as Mr. Averill and Ms. Zimmerman, he shouldn't go without saying that. He said in any event they are committed to continue to make improvements, they have made them since September, they have hustled, they have gotten Ms. Sharp to come out during a wet weather event, she has been gracious enough to do that, she is trying to help this board as well make its decision but they just haven't been able to engage any contractors, have anyone estimate any of this work to see if there might be a better fix, see if other culvert pipes might work in other areas and he doesn't think they are going to be able to do that well in the winter so our hope is that this board recognizes their good faith in addressing concerns that have been raised and grant the conditional renewal and permit us to move on recognizing that you are within your right to do all sorts of things with that granting.

Mr. Lamanna said the board will probably renew this with a condition that you go forward and complete the evaluation of the site and satisfy Soil and Water that you are meeting the required elements of the plan for the property.

Mr. Gutoskey said and if you are going to do any other improvements to the drainage, run it through Soil and Water.

Mr. Butler said he thinks they would have to do that anyway. He submitted to the board, for the file, a copy of the recorded declarations that Soil and Water obligates property owners with parking lots to record and he thinks in order to make changes to the overall design we have to get in touch with Soil and Water anyway because they would have to approve a change to that document.

Mr. Gutoskey said you may be able to do some improvements where that water is sitting on the lot so it doesn't get to the other detention, just coordinate with Soil and Water.

Mr. Butler said part of those things that she suggested don't seem like major things like one was to widen the swale on the west side.

Mr. Gutoskey said whoever does the work have them just shoot some elevations.

Mr. Butler said right.

Mr. Lewis asked Mr. Butler if they are thinking maybe by May 1st this could be completed.

Mr. Butler said he doesn't believe that they could get the work done by May 1st, he doesn't think that is a realistic expectation.

Mr. Lewis said if the plan is designed and approved and resolved.

Mr. Gutoskey said if they have a plan together.

Mr. Lewis said and in 90 days following the plan approval the work would be completed.

Mr. Gutoskey said get a plan completed by May or something and approved by Soil and Water.

Mr. Butler said and furnish evidence of that to the township, Mr. Averill, and then you don't have to review anything any further.

Mr. Lamanna replied no and said ultimately if Soil and Water is satisfied the board will be okay so we will say 90 days and another 60 days to implement it.

Mr. Lewis said it will be a master plan and this is one component of it.

Mr. Gutoskey said if they will have to hire an engineer or surveyor, to shoot some elevations and come up with a plan.

Mr. Butler asked the board for perhaps a further condition that any extensions that Soil and Water might give us in light of the fact that we are sort of beholden to their approval process.

Mr. Lewis said if they submit a letter saying that they are backed up and they are delayed we can proportionately shift the dates.

Mr. Gutoskey said if you could give them a plan by April or the middle of March that gives them enough time to look at it.

Mr. Butler said he wishes he was more adept in these storm water issues, perhaps all of you are but can you formulate a plan in bad weather.

Mr. Gutoskey said as long as you can do a decent topographic survey, if you are going to have 7", 8" or 10" of snow it might be kind of hard but if you can get somebody out there while there are no leaves and no snow.

The board discussed the timeframe.

Mr. Lewis said they are making serious progress.

Mr. Butler said thanks, he agrees. He asked if he heard the conditions right, the renewal will be granted on the condition that by May 1st they furnish a plan to Geauga Soil and Water and by August 1st that plan has been carried out.

Mr. Lamanna said yes.

Mr. Lewis said get your information to our Zoning Inspector as you go so we've got it in the file and anything as far as completion documentation.

Mr. Butler said to the extent that they have not done their job, we will notify you.

Mr. Lamanna said if you are working along with them and there are some snags here and there and they may want some tweaks and it is going to take a little longer nobody is going to take any enforcement action as long as you are working on it, we are sensitive to what the other bureaucracies and sometimes, Soil and Water is usually pretty good but sometimes there are extra demands on them at some particular point in time and they may be a little slower than they are at other times but nobody is going to get bent out of shape for that.

Mr. Lewis said so we can move forward, we just can't give you an open end on completion so we have to have some kind of a date and he thinks everybody agrees we have got a plan that works for everybody and gives you enough flexibility and time so you can get it done and get it done right.

Mr. Butler said he appreciates the board's consideration and thanked the board.

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

Motion BZA 2023-17 – 7765 County Lane (The Church In Solon)

Mr. Lamanna moved to grant the applicant an extension of the conditional use permit for a period of five (5) years from the date the minutes of this action are approved.

Based on the following findings of fact.

1. The board notes that they have resolved some prior issues that came up at the initial hearing on this property.

With the following conditions.

1. The renewal of the conditional use permit is subject to the applicant resolving with Geauga Soil and Water some issues regarding the run-off and their compliance with the established drainage plan for the property.
2. They will complete by May 1, 2024 a plan approved by the Geauga Soil and Water Conservation District to rectify any issues that exist and that they will then further implement that plan and complete it by August 1, 2024.
3. Finally, the board notes that the previous special conditions will continue to apply as well as the general conditions with respect to conditional uses.

Mr. Lewis seconded the motion.

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

Application 2024-1 by Richard Basta (Colonial Auto Sales & Service) for property at 8228 Washington Street

The applicant is requesting a review and renewal of an existing conditional use permit. The property is located in a CB District.

Mr. Richard Basta was present to represent this application.

Mr. Lamanna swore in Mr. Richard Basta and he let the record reflect that Mr. Basta was duly sworn.

Mr. Lamanna asked Mr. Steven Averill, Zoning Inspector if there are any issues with this property or compliance with the conditional use.

Mr. Steven Averill, Zoning Inspector testified by saying no.

Mr. Lamanna asked Mr. Basta if there are any items that he needs to address with us like changes, alterations or anything else.

Mr. Richard Basta testified that he has been there fifteen years.

Mr. Lamanna said so there are no issues, no upcoming modifications of things you want to make so it gives us a chance to address them now.

Mr. Basta said he is doing business as usual.

Mr. Lamanna said so business as usual and everything seems to be going alright, no problems, no existing complaints or existing non-compliances. He asked if anybody has any other issues or questions.

The board replied no.

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

Motion 2024-1 – 8228 Washington Street (Colonial Auto)

Mr. Lamanna moved to renew the conditional use permit for a period of five (5) years commencing with the date the decision becomes final.

With the following conditions.

1. Any special conditions that currently apply to this conditional use will continue in effect as will all conditions generally applicable to conditional uses as set forth in the zoning ordinance.

Mr. Gutoskey seconded the motion.

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

Since there was no further testimony, the public hearing was closed at 7:28 P.M.

Respectfully submitted,

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

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

Date: February 15, 2024

AUDIO RECORDING ON FILE

Bainbridge Township, Ohio
Board of Zoning Appeals
January 18, 2024

The regular meeting of the Bainbridge Township Board of Zoning Appeals was called to order at 7:28 P.M. by Mr. Michael Lamanna, Chair. Members present were Mr. Brent Barr, Alternate; Mr. Ted DeWater; Mr. Joseph Gutoskey; Mr. Todd Lewis and Ms. Lori O'Neil, Alternate. Mr. Emeil Soryal was absent. Mr. Steven Averill, Zoning Inspector was present.

MINUTES

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

Mr. DeWater seconded the motion.

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

ORGANIZATIONAL SESSION

Election of Chair

Mr. Lewis made a motion to appoint Mr. Lamanna as Chair.

Mr. Barr seconded the motion.

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

Election of Vice Chair

Mr. Gutoskey made a motion to appoint Mr. Lewis as Vice Chair.

Mr. Barr seconded the motion.

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

Sunshine Law

Mr. Lamanna made a motion to adopt the Ohio Sunshine Law (ORC).

Mr. DeWater seconded the motion.

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

Meeting Schedule

Mr. Lamanna made a motion to set the meeting night of the Board of Zoning Appeals on the third Thursday of each month at 7:00 P.M. at the Bainbridge Town Hall; which meetings may be continued from time to time, at the discretion of the board, to such other dates as set at the meeting; and also that the board may schedule additional meetings during the month upon its motion.

Mr. Barr seconded the motion.

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

Zoning Secretary

Mr. Lamanna made a motion to reappoint Linda Zimmerman as secretary to the Board of Zoning Appeals.

Mr. Lewis seconded the motion.

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

By-Laws

Mr. Lamanna made a motion to adopt the Bainbridge Township Board of Zoning Appeals By-Laws and Procedures effective January 18, 2007 and amended on January 15, 2009.

Mr. Barr seconded the motion.

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

APPLICATIONS FOR NEXT MONTH

There were no applications submitted for the February 15, 2024 meeting.

Since there was no further business, the meeting was adjourned at 7:45 P.M.

Respectfully submitted,

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

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

Date: February 15, 2024