

Bainbridge Township, Ohio
Board of Zoning Appeals
June 20, 2024

Pursuant to notice by publication and ordinary mail, the public hearing was called to order at 7:01 P.M. by Mr. Michael Lamanna, Chair. Members present were Mr. Ted DeWater; Ms. Devon Gamble, Alternate; 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 and explained the public hearing process. He noted that the board is going to move application 2024-17 up to be first to accommodate the applicant's schedule.

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

Application 2024-17 by Jeffrey Stanczyk for property at 8839 N. Spring Valley Park Drive

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

Mr. Jeffrey Stanczyk was present to represent this application.

Mr. Lamanna swore in Mr. Jeffrey Stanczyk and he let the record reflect that Mr. Stanczyk was duly sworn.

Mr. Jeffrey Stanczyk testified that he would like to get a variance to allow him to construct a 6' high fence that extends 38' from the front of his house toward the front of his property between his house and his neighbor's house that is in kind of an odd spot that doesn't allow for much privacy on the side yard. He said it says he is allowed to do a 4' high fence but that doesn't really help the privacy part too much, he can't really plant trees there because there are already existing trees so a 6' high fence in that area which would just go up to where the corner of the neighbor's house starts and ends.

Mr. Lewis said the fence you are proposing ends at the rear.

Mr. Stanczyk replied yes.

Mr. Lewis said what you are proposing you would end at the rear corner of his house, not the front corner.

Mr. Stanczyk said right, it would start at the front corner of his house right here and go all the way back because the variance would be for 6' high instead of 4' high.

Mr. Soryal said it goes to the corner of the lot.

Mr. Stanczyk said the fence will be 3' off of the neighbor's property line to allow maintenance for himself.

Mr. Lewis said tell me about this fence please.

Mr. Stanczyk said it would be a privacy fence or shadowbox or board overlapping board, pressure treated, straight line all the way down and added that the board has a picture of it. He said he had it surveyed about two years ago and all of the pins are marked currently still so they are visible and easy to find.

Mr. Soryal said it says on the application that this will help with noise too because you park your truck next to the fence.

Mr. Stanczyk said yes so that little driveway part right here is where he parks so when he starts his truck in the morning in the wintertime with all of the noise it will help deflect it away and then sometimes or a lot of times he will back his truck in so it is easier to leave in the morning and his headlights temporarily and he tried to not have them on but then he can't see.

Mr. Soryal referred to the site plan and said you are coming back right to this point where the property changes direction.

Mr. Stanczyk said correct.

Mr. Soryal asked if it is also 3' from that line.

Mr. Stanczyk said yes, that will be from every line.

Mr. Gutoskey asked if there is anybody in the audience that wants to speak on this application.

Mr. Lewis said the board needs to secure the practical difficulty component on this beyond convenience.

Mr. Lamanna said this is one of the ones that you also have to look at and what the purpose of the ordinance is and the purpose of the ordinance is basically to protect the adjacent property owner from having a big fence marching down in front of his house as well. He said in this case the fence is stopping at the front of his house so he thinks the key here is, not to mention the fence is still only 6' high, it is only 2' over, it is not like it is 10' high or 8' high so he doesn't think given what the purpose of this provision is that it is really applicable to this situation where the other house, since it is starting at the front of the other house, he thinks what this is designed for is to protect the adjacent property owners from looking at the front of their house and seeing two tall fences going down potentially to the street.

Mr. Gutoskey said but the question is, this side of the house, is this the back of their house because this would be the front here. He said it is the way the house is oriented on the lot too because the front is on Riverview.

Mr. Lamanna asked how the house got so close to the sideline here, it got built a long time ago and nobody really noticed how close it was.

Mr. Stanczyk said they also have a chicken coop on the property line right there as well and then he put markers up with a string to further show you where the property line is as well.

Mr. Gutoskey asked if that is the chicken coop right there on the corner of the house.

Mr. Stanczyk said correct, like right on that line and they are smelly. He said the second picture is a closer view of that area.

Mr. Soryal said he is trying to see if there are windows on his side of the house that is going to be facing that fence.

Mr. Stanczyk said yes there are some windows.

The board discussed the location of the neighbor's house to the property line.

Mr. Stanczyk said he has got quite a bit of room still to get in and out over there.

Mr. Lamanna said this is why we don't like letting people build too close to the property line because this is what happens.

Mr. Gutoskey asked when that house was built.

Mr. Stanczyk said 1957.

Mr. Soryal asked Mr. Stanczyk if he talked to the neighbor about his plan, does he know you are building a fence.

Mr. Stanczyk said no.

Mr. Lamanna said he would have gotten notice.

Mr. Steven Averill, Zoning Inspector asked if the board is asking about the neighbor's house when it was built.

Mr. Lamanna said yes.

Mr. Gutoskey said 1957, that is when the development went in.

Mr. Lamanna said somebody built the house and they never noticed that it wasn't built where they said it was going to be built.

Mr. Gutoskey said if the neighbor came in for a fence.

Mr. Lamanna said he could put the same fence in.

Mr. Lewis said with zero impact request.

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

Motion BZA 2024-17 – 8839 N. Spring Valley Park Drive

Mr. Lamanna moved to grant the applicant the following variance for the purposes of constructing a 6' tall fence.

1. The variance is with respect to the 38' that will be located in front of the applicant's dwelling that will be 6' high and 3' from the property line.

Based on the following findings of fact.

1. It is clear that this requirement limiting fences in front yards to 4' high was enacted to prevent there from being large fences put into the front yard so that neighboring property owners would not be looking at fences running down along the side of their front yard.
2. In this case the fence is terminating at the front of the house and if the adjacent property owner was building this fence they would be entitled to build a 6' high fence along there so it seems unreasonable to deny this applicant when there will be no impact upon the adjacent property owner nor will it adversely affect the character of the neighborhood.
3. The board notes that the height of the fence is going to be only 6' tall which is not substantially larger than the 4' that would be otherwise permitted.

Mr. Gutoskey seconded the motion.

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

Application 2024-14 by Rick Turner for True North Energy LLC for property at 8501 E. Washington Street

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

Mr. Rick Turner was present to represent this application.

Mr. Lamanna swore in Mr. Rick Turner and he let the record reflect that Mr. Turner was duly sworn.

Mr. Rick Turner testified that he is with Diamond Z Engineering and they represent True North Energy and a lot of their development issues, in fact he was here five years ago doing the same thing. He said he stopped by and looked at the site and he sees that it is clean, he didn't see any trash laying around, the landscaping is well cared for, the buildings are clean, inside the carwash is clean so they seem to be taking good care of it. He said he knows that the signage out by the street is the same one that was there five years ago when he was there, the signage on the building is the same. He said there was an issue with ice makers or an ice chest on the sidewalk and we moved that over to the end of the building. He said there was also an issue with a strange tent that was at the entrance to the carwash and that got taken down when they replaced the equipment so he thinks that was probably the most onerous thing that was out there last time. He said he hasn't received a negative report and he is happy to hear if you have anything that needs to be addressed.

Mr. Lamanna said so that tent is no longer needed.

Mr. Turner said no.

Mr. Lamanna said all previous conditions are met and no complaints have been received. He asked if there is anybody else here who has any comments or interest in this application or no other issues.

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

Motion BZA 2024-14 – 8501 Washington Street – True North Energy (Shell Station)

Mr. Lamanna moved to renew the conditional use for this applicant for a period of five years commencing with the date the board's minutes become final.

1. The one change will be that Item #1 from October 18, 2018 regarding a tent at the entrance to the carwash will be removed since it is no longer in use.
2. All previous conditions will remain in effect as will the application of all conditions that are generally applicable to conditional uses.

Mr. Lewis seconded the motion.

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

Application 2024-15 by Jeff Cyncynatus for property at 18009 Millstone 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. Jeff Cyncynatus was present to represent this application.

Mr. Lamanna swore in Mr. Jeff Cyncynatus and he let the record reflect that Mr. Cyncynatus was duly sworn.

Mr. Cyncynatus testified that he purchased the house in 2020 and obviously identified the shed at the back right corner of the property, this small 8 x 10 shed, with the intention to build a larger shed in time but through COVID he had to reassess the availability of various items. He said he first established he thinks in 2022 talking to Karen Endres the previous predecessor to Mr. Averill about constructing a driveway and also a shed and she had given him some information about both the driveway requirements and the shed requirements in 2022. He said he was unable to get through the actual work in 2022 due to availability and he constructed a driveway in 2023 and at the same time had some additional supplies to complete a pad out back so he had put a cement pad out back in preparation for a shed. He said fast forward to 2023 when he talked to Mr. Averill at this time the requirements had adjusted and when he went to submit for a permit the pad was no longer within the current confines of what is the requirement for the coding and so in talking to Mr. Averill about the process and then going through the appeals process he wouldn't make it timely over the winter so he held it until this summer to begin the process and request the variance to put a shed 42' off the back and 38' off the rear. He said he selected the location due to a number of reasons being kind of visibility for it and hiding it from his neighbors on both the right and left and also from the back as well. He said in addition to that, he does have some different areas that take significant water in both the back and in the front and in the middle of the lawn that allowed him to kind of survey where the best place would be so he has limited water kind of throughout the year as he brought lawn equipment out and he could keep it as dry as possible and not ruin the yard. He said today he is asking for a variance of 9' off the back so that he can construct a shed within the current requirements for it on that current path.

Mr. Steven Averill, Zoning Inspector testified that the pad that was put in is not an issue, he has a permit for it if he wants to keep it but if the shed is approved the pad becomes part of the application for the shed so the pad would be part of that application.

Mr. Lewis asked if we have the size and the setback, dimensions of this pad.

Mr. Cyncynatus said the pad is 20' x 20'.

Mr. Gutoskey said on the application it had 31' from the rear lot line and he thinks you are going for 42'.

Mr. Cyncynatus said when he originally submitted the application was declined and he went out and kind of used ReaLink to remeasure everything to make it more accurate so he knew exactly what he was asking for so that is what the adjustment on the appeal of it is.

Mr. Gutoskey said to Mr. Averill, on his sheet, the side setback is from the south property line.

Mr. Averill said correct.

Mr. Gutoskey said 20' is required and proposed is 38', that is the southwest and north doesn't matter, so that should be south, correct.

Mr. Averill said that should be south.

Mr. Gutoskey said and there is an existing shed there now that is what, 10' off the line.

Mr. Cyncynatus said the existing shed right now is 10' off the line.

Mr. Gutoskey said so you will be moving to about 42'.

Mr. Cyncynatus said further off that line in the back yes.

Mr. Lewis asked how the pad is off the side in the rear yard.

Mr. Cyncynatus said 38' or currently or the new one.

Mr. Lewis said the pad off the rear.

Mr. Cyncynatus said 42'. He said it will be constructed on the pad that is 42' off the rear.

Mr. Lewis said and then from the side yard.

Mr. Cyncynatus said it is 38' off the side and 42' off the back.

Mr. Soryal asked how big the shed will be.

Mr. Cyncynatus said the shed will be 20' x 16'.

Mr. Soryal said but there is an additional 4' x 20' on top of that, it says not including the 4 x 20 covered portion.

Mr. Cyncynatus said yes, the shed will be constructed with an overhang.

Mr. Soryal asked if the current concrete pad will be included.

Mr. Cyncynatus said with the overhang it is 20 x 20.

Mr. Gutoskey said it is still below the 896 sq. ft.

Mr. Averill said we measure from outside wall to outside wall.

Mr. Gutoskey asked if lot coverage is okay.

Mr. Averill said lot coverage is okay.

Mr. Gutoskey said he looked and it is not in the riparian, the riparian starts on the next lot to the south. He asked if there is anybody in the audience that would like to speak on this.

Mr. Lewis said he just needs clarification on something, if the current is 42' off the rear property line, that is where you are looking for the 8' to pick up that gap and then you are going to build this thing on the pad.

Mr. Soryal said what Mr. Averill is saying though he could essentially extend the pad another 8' and build the shed 50' from the back and not completely destroy the pad, he will have just a little extra in the back as an option, you could do that right.

Mr. Cyncynatus said yes, they had talked about this.

Mr. Lewis said and then you take advantage of the pad that is there already.

Mr. Cyncynatus said yes.

Mr. Gutoskey said plus he is moving the shed up.

Mr. Lamanna said he doesn't see anything.

Mr. Gutoskey said it is all woods behind.

Mr. Lamanna said it is not going to affect anybody.

Mr. Cyncynatus said it is a 12 x 10, a Costco shed that somebody had before he purchased the property.

Mr. Lamanna said it is not a mega building.

Mr. Lewis said no, not at all, it is quite modest.

Mr. Cyncynatus said he has two water areas in his backyard, one is created to the swale and the back one is on what he calls an easement but he is not really sure what part of the easement, he does have a picture of it, he talked to the township about it, you can kind of see it but there is significant water issues back here. He said that is the easement with water running here and then back here, this is a huge pool that is created right here so everything needs to be pushed forward and he thinks that is the sewer line at the corner so he thinks what happens is somewhere it is flooding up a little during the rain.

Mr. Gutoskey said there may be some kind of a storm sewer that runs down through there probably off of East Pilgrim.

Mr. Cyncynatus said it comes up and then his yard saturates pretty hard so that shed will take a lot of water on.

Mr. Lewis said your pad has survived that area.

Mr. Cyncynatus said yes, he tried to put it where there is the most elevation, he can't get out of it but obviously it is up a little bit, 4'.

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

Motion BZA 2024-15 – 18009 Millstone Road

Mr. Lamanna moved to grant the applicant the following variance to construct a 16' x 20' x 13' high accessory building in accordance with the plans that were submitted.

1. A setback of 40' from the rear property line, from the required 50', granting a setback variance of 10' primarily so that the applicant can use the pad that already exists which is at that location granting slightly more than has been requested to make sure that we don't end up with a situation where if this was surveyed and find out it was closer than the 8' requested.

Based on the following findings of fact.

1. The applicant is removing an existing building that is well within the setback area.
2. The applicant also has a large area of rear property that is subject to water coming up and would be a problem for having a shed.
3. Additionally, where the shed is located it will be thoroughly screened from the rear neighbors.
4. This will replace a shed that is far closer to the line.
5. The proposed location has been approved by the Pilgrim Village Association and will not adversely affect the neighboring properties nor will it change the character of the neighborhood.
6. This is, in the general scheme of things, a moderate size outbuilding.

Mr. Gutoskey seconded the motion.

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

Application 2024-16 by Michelle Perez for property at 17464 Lakesedge Trail

The applicant is requesting area variance(s) for the purpose of installing an in-ground swimming pool with deck and patio. The property is located in a R-5A District.

Ms. Michelle Perez and Mr. Carlo Calabrese were present to represent this application.

Mr. Lamanna swore in Ms. Michelle Perez and he let the record reflect that Ms. Perez was duly sworn.

Ms. Michelle Perez testified that they are interested in receiving a variance for the construction of a new patio and inground pool and the replacement of their existing deck which was probably quite close to the original home and very dilapidated so replacing that with new trusses they are requesting a variance for the setbacks on the pool and will have an inground pool hopefully subject to the plans that have been submitted and then a patio in that area. She said their goal is to certainly have the enjoyment of a new backyard but also to have that natural beauty of the surrounding area so they have taken care to ensure that they are thoughtful about retaining the appropriate trees between our property and our backyard area and replacing any we did take down that were rotted. She said she will certainly answer any questions the board may have.

Mr. Gutoskey said he is having a hard time following how this goes to the house because he has this drawing which is off the GIS that shows the house and the existing decks and patios but he can't figure out from that how much of the new layout actually goes over the existing layout.

Ms. Perez said the deck previously was multi-tiered and we are tearing that down and if you are looking this is the house so we had a multi-tiered that went down almost to the rock area, we are actually cutting that down to a single tier.

Mr. Lamanna swore in Mr. Carlo Calabrese and he let the record reflect the Mr. Calabrese was duly sworn.

Mr. Carlo Calabrese testified that he is the contractor and here to represent for Michelle and Joe Perez.

Mr. Gutoskey said the question he had and that clears it up some, basically the deck you are adding is pretty much going where the old current deck is now and then the pool and the pad are beyond that.

Ms. Perez said correct and it is very, very close to the house because we wanted to operate within the confines as much as we could so again because we are basically shrinking the pre-existing width of the deck if you think of it as again, it was multi-tiered, we shrunk that, it will just be one single level which gave us the ability to pull the pool closer.

Mr. Gutoskey said this drawing makes it a lot clearer so your offset of the 35 is actually to these retaining walls that go around.

Ms. Perez said that is right.

Mr. Gutoskey said he thinks the pool is actually going to be more than 35. He said this kind of makes things look a little clearer.

Mr. Soryal said this is a beautiful design but we have about 9' of retaining walls with two set of stairs going to that but yet we have another set of steps to the right, why not have another set to the left and just cancel this whole 9' in the back and that will give you an additional 9', there is 9' there, that is just a flower bed basically, right.

Mr. Carlo Calabrese testified by saying correct.

Mr. Soryal said that would move the problem, right.

Mr. Calabrese said the original design was to appease the HOA and try to stay within their confines and she allowed us 9 or 10 originally.

Ms. Perez said yes.

Mr. Calabrese said and now we are asking for an additional 6 so 16' total in the rear to appease the HOA.

Mr. Soryal said it is all good he just wanted to make sure.

Mr. Calabrese said they want to do a step area that way it didn't feel like it was just all sunk into one 4' high retaining wall.

Mr. Lamanna asked if the steps are going up.

Mr. Calabrese said they are going down to the pool so the yard is raised around the pool.

The board reviewed the site plan.

Mr. Calabrese said it is a second story deck, it is a walkout basement, this will all be flush and then it steps up to the yard.

Mr. Gutoskey said he sees it stepping down because this is a 40, this is a 30 down here so it is 32, 34, 36. 38, 40.

Mr. Calabrese said right now it is to the edge of the deck that all flows away and has the walkout here.

Mr. Gutoskey said you are showing you are moving this 40 contour further out away.

Mr. Calabrese said yes to flatten in the area, that is more for around the whole patio to just be flush with the surrounding area, this wall here.

Mr. Gutoskey said so basically you are sinking this into the ground so it is a walkout.

Mr. Calabrese said correct.

Mr. Gutoskey said so these steps are going this way, they are going down.

Mr. Calabrese said yes and the reason for that is because this is so close, we want to be able to have a patio underneath the deck.

Mr. Gutoskey asked so this deck is first floor.

Mr. Calabrese said the second, yes first floor but it is on back here, the second floor.

Mr. Gutoskey said so this is actually below grade there.

Mr. Lamanna said it is not really a used space from the standpoint of impact, it is actually really low.

Mr. Gutoskey said he thinks even if the 35, it is actually more than that or 34 whatever and that is for the retaining wall.

Mr. Lamanna said but the property lines on the non-build area, the waste area behind.

Mr. Calabrese said yes it abuts a property at this corner for about maybe 15'. He showed the board a drawing and said this is looking at it from the lower level under the deck looking out towards the rear of the yard.

Mr. Lamanna said now you can see it from the house.

Mr. Lewis said now he understands the elevations of it all.

Mr. Calabrese said this is a beautiful site from the bottom door of the basement so that would be this walkout.

Mr. Lamanna said so the plantings are in between sort of.

Mr. Calabrese said and the reason for doing this is to make these walls.

Mr. Lamanna said below grade.

Mr. Soryal said it looks nice, it is not usable for anything else it is not like you put lawn chairs or anything in it.

Mr. Lewis asked if this is in Canyon Lakes and if they have a signed off information from the HOA approving this.

Ms. Perez said they do have the HOA approval on the entire budget.

Mr. Steven Averill, Zoning Inspector testified that it is on file.

Mr. Calabrese said she came out to the property and said okay.

Mr. Soryal said he is assuming there is no lot coverage issue, right.

Mr. Averill said right.

Mr. Lewis said sometimes you just need to have a discussion about a project.

Ms. Perez said she 100% gets it.

Mr. Calabrese said that is why he wants to do some renderings as well that way you can see exactly what is going on.

Ms. Perez asked the board if they need that HOA approval, she can find it in her email.

Mr. Gutoskey said it is 34' to the retaining wall, correct.

Mr. Calabrese said correct.

Mr. Gutoskey said it is 34' or 35', this says 35'.

Mr. Lamanna said we have got to get the numbers right, we don't want to get into a situation where somebody might look at it and ask if you got approval for this.

Mr. Gutoskey said it is 35 and 15.

Mr. Calabrese said they went with 35 and 15 because that is what Laura Cramer approved.

Mr. Lewis said we want all of the paperwork to line up.

Mr. Calabrese said correct.

Mr. Lamanna said so we all understand what is going on then.

Mr. Gutoskey said yes, 35 and 15, we all understand.

Mr. Lamanna asked if there is anybody else who has an interest in this application.

Ms. Lori Scheeringa of 17481 Deepview Drive stated that she did.

Mr. Lamanna swore in Ms. Lori Scheeringa and he let the record reflect that Ms. Scheeringa was duly sworn.

Ms. Lori Scheeringa testified that her property abuts to their property and she was just curious and wanted to find out more about why the setback is necessary and why they need a variance, because to her it means privacy and a buffer zone and the result of what happened so far and with all due respect to the project but she feels like she would like some privacy put back. She said there was a lot of grading and tree removal that is probably not showing up on the drawings and she doesn't see any plan to reinstate greenery, some year-round greenery because even the trees that were there were not evergreens they still had nice big trunks and then they had branches and it created a little bit more of a screening and now she feels like it is just pretty open and that is six months of the year. She said the grading started and the removal of the trees started in March so she had a good month before the trees started to be in and feeling very much on display. She said she would add evergreens herself but they are a lot of money and her lot slopes down so because of the slope of the lot she would have to get very tall, very nice growing evergreens to try to replicate what they had so she just knows that the setback area and privacy and buffer zone so she is just wondering is it really necessary that we dig into that, that zone there.

Mr. Gutoskey asked to see the parcel to the south there.

Mr. Averill said it is all Canyon Lakes.

Mr. Gutoskey asked if that is Canyon Lakes open space.

Mr. Averill said yes.

Mr. Gutoskey said in looking at the plan you submitted it looks like it shows some trees across the back, do you have a proposed landscaping plan.

Mr. Calabrese said and that was to maintain their privacy as well as Ms. Scheeringa's because we have talked before and you know we want people to be happy as well and he feels the evergreens being planted there would help that throughout the whole year and not just in the summertime.

Mr. Gutoskey said it looks like you are showing seven trees.

Mr. Calabrese said correct.

Mr. Lamanna said he can't see what the elevations are.

Ms. Perez said they have a current view of what the foliage looks like, obviously in the winter there is a lack of foliage but they spoke with Lori certainly in regards to wanting to make sure her privacy was maintained as well as theirs and the trees that were removed we had Highland Tree Company come out which is her company as well as the company that Canyon Lakes uses and he consulted on the dead trees that were removed and indicated that they were dying so based on that we felt it was to the betterment of the entire community for us to pay to have those removed. She said one of the trees was leaning very precariously from our property across the ravine and onto Lori's and that was a concern long term about a big storm or something like that so we did pay to take those out already.

Mr. Lamanna asked that the elevation is of the two houses, would you say at the first floor they are pretty even.

Ms. Scheeringa said yes from kitchen sink to kitchen sink.

Mr. Lamanna said so it goes down in between.

Ms. Perez said both houses like your deck comes off of your kitchen level, does that make sense, for both houses.

Mr. Lamanna said yes, you say they are pretty much equal.

Mr. Gutoskey said the contour behind either house is exactly the same.

Mr. Lamanna said the contour looks like it is pretty close.

Mr. Gutoskey said it is the same.

Mr. Lamanna said he just wanted to verify that with somebody. He said the houses are sitting pretty equal and then they drop.

Mr. Calabrese said that was one of the other reasons to minimize the setback variance that would be needed to not go back too far into the wooded area.

Ms. Perez said they have tried to do everything and certainly working with Lori and understanding her concerns, again, she has a picture of what the current foliage looks like and she does feel that during the summer months the privacy will be maintained.

Mr. Gutoskey asked about the pool dimensions.

Mr. Calabrese said 16 x 40.

Mr. Gutoskey said it is not huge.

Mr. Soryal asked how tall the Pine trees are behind the swimming pool.

Ms. Perez said they haven't purchased them yet.

Mr. Lamanna asked if they have an idea about the pre-existing trees.

Ms. Perez said the trees that were in there, previously they had a fence when they purchased the property.

Mr. Lamanna said it doesn't look like there was grass back there.

Ms. Perez said they did have grass, it was fully grass and no trees.

Mr. Lamanna said to the property line.

Ms. Perez said correct, they had a fence and the area in front of the fence was all grass and the area that was behind was still our property line but there were trees that were between the properties and again, those, they did remove some that were dead and dying.

Mr. Lamanna said between the properties is a little tricky because we only have a common boundary there in that little spot.

Ms. Perez said the trees were not removed from the common property, they were removed from our property and again they took care to make sure that they were using an approved vendor, one that Lori used in the past as well.

Mr. Gutoskey said the question again is, is the setback to the retaining wall or is it to the edge of the pool slab.

Mr. Averill said it is to the retaining wall.

Mr. Gutoskey said what if you have a driveway and you need to put a retaining wall next to it is that allowed or would it have to be 2' off the property line like for a driveway if you have to do a retaining wall.

Mr. Averill said this is part of the pool project, the retaining wall so it has to meet the setback.

Mr. Lamanna said it is not like it is a freestanding retaining wall that you put in because your property was going like this.

Mr. Averill said it is part of the project.

Mr. Soryal said if she was just doing the retaining wall today would you need any permit for it.

Mr. Gutoskey said but here is the other question, if you took the retaining wall out and just sloped the grade down.

Mr. Soryal said that is what he said originally, once you get rid of all the flower bed and just bring it back.

Mr. Gutoskey said just take the grade down.

Mr. Lamanna said you are right absolutely, this is part of the project, you have got to look at the whole thing but you also have to look at the fact that yes, it is part of the project but it is really a landscape area, it is not a functional area, at least 85% of it.

Mr. Averill said the steps are part of it so we look at the whole project throughout.

Mr. Gutoskey said so that is pretty consistent.

Mr. Averill said the topography over there is extreme and when you see retaining walls that are functional structures as well on the side lot line between houses they are within feet of the lot line but this is part of the pool facility as well as the steps.

Mr. Lamanna said it is part of the project.

Mr. Gutoskey said going back to what Mr. Soryal said if you put the steps on one side.

Mr. Soryal asked how does that help the privacy issue.

Mr. Lamanna said it doesn't.

Mr. Gutoskey said that is what he is trying to get at there is a way to mitigate it and the pool could pretty much be in the same spot.

Mr. Lamanna said right.

Mr. Gutoskey said he was just trying to see what the distance was from the retaining wall to the pool itself but he doesn't have anything to scale it.

Mr. Soryal said it says 9'.

Mr. Lamanna said if you could even grade it down to the pool edge.

The board discussed the project.

Mr. Gutoskey said the question is how high are the trees they plan on putting in and do you think that those are enough trees.

Ms. Perez said she could help the board clarify it, it would be helpful to her because she views it as two separate things, the trees would be part of the landscaping, right.

Mr. Soryal said behind the fence.

Ms. Perez said no, in the drawing where we had the pool, these are landscaping and the ones that were removed, and again they had the association company come out and look at those trees which was Lori's request because she was concerned about the trees that were coming out and ultimately we had marked what we were taking out too that were on our property, Highland said this one is still alive, this one is dead, we took down this one and kept the other one so from her point of view, yes, we absolutely removed trees and we've done that but the trees that were removed were trees that were non-viable and we worked to hone what Lori's wishes were in regards to maintaining the privacy, we want that too. She said this is landscaping more so than anything so she appreciates the fact that you are talking about that here.

Mr. Soryal said we are talking about these.

Ms. Perez said they have pictures of what the foliage looks like if that would be helpful, she can show the board what that looks like.

Mr. Soryal said they are not purchased yet so they could be taller.

Ms. Perez said yes, and asked the board if it would help to see a picture of what that looks like today in terms of these trees that are existing there. She said there are still dense trees that are there, they didn't clear out everything, they took down trees that were dead and dying and they kept one that Lori asked us to keep so that is what she wants to make sure of.

Mr. Lamanna asked would he be looking up from the pool.

Mr. Joseph Perez stated that yes, you are looking up. He said there was one tree that was removed that was agreed upon and by removing that tree you can see through a little bit more, not much.

Mr. Lewis said he thinks the concern was if there is enough screening back there that is all year long, they don't lose their leaves and that the starting height of that screening might be six to eight feet, not two-footers that are going to take 20 years to grow. He said with enough density or staggering them so that at least on the bordering property line with yours and with theirs that there is adequate all year screening there regardless of how things were in the past or how they are now if there is not a bunch of Pine trees up there, as soon as the Fall comes, the existing trees don't offer much in the way of screening or buffering.

Mr. Soryal asked how long the line is connecting the two properties.

Mr. Averill said 40' to 50', it is not real long.

Mr. Lewis asked how far in from the property line is your proposed fence.

Mr. Perez said 15'.

Mr. Lewis asked if the trees would be inside the fence or outside of the fence.

Mr. Perez said outside the fence.

The board discussed the number of the proposed trees and location.

Mr. Soryal asked how far the fence is to the property line.

Mr. Perez said about 15'.

Mr. Soryal said and that is the area where you are proposing these Pine trees.

Mr. Lamanna said you only need a half dozen of them or something.

Ms. Perez said they took two trees down that are directly between and one of them was dead so that is what she is trying to say.

Mr. Lewis said we are just trying to establish an adequate buffer for today forward and it is good neighborly relations.

Ms. Scheeringa said she just wanted to add that she appreciates the two trees that were taken down by them and she recommended them and that was very helpful but other trees were removed in March and the privacy is quite different even before Highland took down the two trees.

Mr. Soryal asked if she has seen the new plan.

Ms. Scheeringa said she only got a glimpse of it today and again she just saw a few little sparse trees.

Mr. Lamanna asked how tall was it before.

Ms. Scheeringa asked all the trees.

Mr. Lamanna said yes.

Ms. Scheeringa said they were quite tall, she would definitely not be able to see into the windows and watch their big screen so it feels like it has just opened up everything.

Mr. Soryal said but the two trees needed to go.

Ms. Scheeringa said yes and she thought it might have been on her property and she wanted to have it removed because she was worried about it for everyone. She said once the other trees came out and she saw how barren it was, it was like Oh my Goodness, she really had to get talked off the ledge because then she felt she didn't want to lose this tree because it was just sort of a nice little screening, a big screening but she understands it had to go, it was their decision when they took it out. She said she doesn't regret that they took it out at all but at the time she had misgivings about it.

Mr. Lewis said if they reestablish the privacy buffer with evergreens that will continue to grow you will have a year-round buffer regardless of the seasons.

Ms. Scheeringa said it is challenging because of the slope.

Mr. Lewis said it goes both ways and they have the privacy of looking your way.

Mr. Lamanna said the problem is when you go down to the property line we are standing 15' at least the bottom of your first floor where you walk out on your deck so we are starting a whole 15' and the problem with trying to build something and have something grow is if it was 15' tall it really wouldn't make any difference so it is going to take a while, that is what he was trying to figure out.

Ms. Scheeringa said the people next door, actually their trees did grow fast and it was a very positive situation in the end because they did screen with evergreens so something like what they did would absolutely resolve it.

Mr. Lamanna said this triangle area, that part of it belongs to the association, is that just scrub trees and stuff.

Ms. Scheeringa said it is wooded, natural.

Mr. Lamanna said it is not maintained, it is just a natural area.

Ms. Scheeringa said yes, it is just a natural area.

Mr. Soryal said so the area of question is the first 40' from the property line, right.

Mr. Calabrese said he thinks it is part of the visual is where the areas that were graded out, the little scrub trees so just the bare dirt is very stark, a shock factor and has to grow in so he believes that that alone is adding to whatever.

Mr. DeWater said you do see that drawing with the seven trees across where the trees are going to be 17' apart. He said evergreens, naturally, you plant 15' to 20' apart because they are going to grow so let's say you put ten in instead of seven, ten years from now you will come back and remove some of them because they will just naturally die off so you may move them up from the property line a little bit, up the slope a little bit gets a little bit of height, a couple of feet, plant ten to twelve foot high gets some instant gratification, you are not going to get 35' to 40' right off the bat but it will help and like you said, clearing and grading, you are going to get that shock factor, they are looking at barren dirt now but once it is landscaped they don't want to look at that either themselves so it is going to come back.

Ms. Sheeringa said obviously she started with the natural beauty of the property so the landscaping will be beautiful.

Mr. Stuart Katz in the audience asked if he could speak.

Mr. Lamanna swore in Mr. Stuart Katz and he let the record reflect that Mr. Katz was duly sworn.

Mr. Katz testified that he lives at 17472 Lakesedge Trail and he lives just south of them and he actually has a longer border on their new area and it is going to be very positive and to reinforce that he thinks it is a very good thing what they are doing, they are enhancing the property significantly and he thinks it will be very positive and he understands your concerns (Ms. Sheeringa) absolutely, he is sure they will take care of that. He said what they didn't talk about is that one tree that they removed was at a 45° angle and it looked scary and he is glad it was removed for the kids, a lot of kids go back there, they shouldn't be but they are so it was an improvement of safety.

Mr. Calabrese said that is the one that came across that property line.

Mr. Lewis said he thinks the gang has created a viable solution and evergreens are all year, space them apart where there is room to grow, you start with a reasonable height and that satisfies everybody on day one.

Mr. Lamanna said he thinks the problem is you are going to be looking down into the property that is why he is sure they want to have that landscaping there because that is going to create privacy, they are not going to be able to be looking up into your property.

Ms. Sheeringa said her son is a lifeguard so if they need somebody he is available.

Mr. Lewis said it is a backyard feature.

Mr. Lamanna said this project does not really create the issues of the trees going away other than we could thin out the trees on our property because we might want more light coming onto our property but the actual placement of this pool there really isn't changing your privacy.

Mr. Gutoskey said they could have just cut the trees down and planted grass.

Mr. Calabrese said it is actually increasing the privacy.

Ms. Perez said it was all wood there and there was cracked concrete when we bought it, it was a disaster so we took that out.

The board discussed the proposed trees.

Mr. Lamanna said you have seven trees shown there now, can you do ten to twelve feet tall, we would actually rather have them a little taller, he does not know what is specified.

Mr. Calabrese said the area that abuts Lori's will be evergreens.

Mr. Lamanna said it will get too crowded if you get two more than what you have shown there.

Mr. Calabrese said she already has some evergreens there so if Lori is willing to just work through it.

Mr. Lewis said either way because you are asking for a variance, this criterion needs to be negotiated and agreed upon now mostly between the applicant and the board and yes, if the adjacent property owners are getting satisfied along the way, yes votes are always good but we can't say you guys work all this tree stuff out later on, we are going to set some parameters today as part of the variance application as it is something we have to consider which is the impact on adjacent property owners with any project. He said the good news is this thing is 15' below grade in a valley and it makes it a little bit easier in some respects so going back to Mr. Lamanna's question, because he thinks the site plan called for seven trees which would go across there and there may be some existing, is everybody in agreement to putting in ten to twelve foot trees as a start so that hopefully in a few years they will reach 15'.

Mr. Lamanna asked the applicants what size they are planning on putting in, we would like to see seven ten to twelve foot evergreens there and with the spacing you have that is pretty good.

Mr. Gutoskey said even if you have to pull off the property line a little bit.

Ms. Perez said the question that she has is she has not priced out any ten to twelve foot trees so she is just trying to make sure that she can actually provide them.

Ms. Soryal said in the scheme of this project it is not going to be that much.

Mr. Lamanna said you already have the cost of bringing the trees in, digging the holes and all of that and if you make the tree a little bigger it is not going to change that cost really.

Mr. DeWater said they will be \$450 - \$500.

Mr. Lewis said the labor to install them, the equipment doesn't change whether it is a six foot tree or a ten footer, you pay the nursery a little bit more for a little bit taller tree.

Mr. Lamanna said we are not talking \$10,000 here, probably a couple of thousand dollars. He said with all of the other work that is being done it may be hardly noticeable, it is not like you are trying to put in 25' trees where you would need massive equipment to do it. He said that size tree is a normal kind of thing a landscaper can handle, nothing special.

Mr. Lamanna asked are we good to go on that.

Ms. Perez said she thinks so, yes.

Mr. Calabrese said it will look beautiful.

Mr. Lamanna said he thinks in the end it is going to be less of a privacy concern.

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

Motion BZA 2024-16 – 17464 Lakesedge Trail

Mr. Lamanna moved to grant the applicant the following variance for the purposes of constructing a deck, pool, patio fencing and landscape retaining walls as set forth in the application provided to the board based upon that application of the drawings, renderings and other details.

1. A variance to the rear yard setback from 50' to 35' for a variance of 15'.

Based on the following findings of fact.

1. This variance is warranted because of the small lot size and strange lot size, the lot is in the Canyon Lakes Subdivision.
2. The proposed plan is actually sunk into the ground below grade.
3. A large part of the area in the variance will actually be a landscaped area and will not be above ground structures so the site impact will be very small.
4. The applicant is also adding additional trees along the rear property line, seven trees, which will be 10' to 12' evergreens that the applicant has agreed to put in that area to soften the sight lines.
5. In addition, there will be landscaping as shown in the drawings in that area where the variance is which will provide additional privacy and screening and will additionally reduce the impact upon the neighboring property.
6. As currently shown with the addition of the higher evergreens there will not be an adverse impact on the adjacent property.
7. The board notes that this whole area is down below that actual first floor elevation, the two houses as well, so that creates a practical difficulty with respect to trying to provide screening and privacy and this proposed plan accommodates the limitations created by the topography in that area.
8. The board also notes that this is not adversely or contrary to the character of the neighborhood as there are many other pools and decks in similar situations with less than a full rear setback.

Mr. DeWater seconded the motion.

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

Application 2024-18 by James Ponyik for property at 8346 Eaton Drive

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

Mr. James Ponyik was present to represent this application.

Mr. Lamanna swore in Mr. James Ponyik and he let the record reflect that Mr. Ponyik was duly sworn.

Mr. James Ponyik testified that he currently has a deck on the south side of his house that is 10' out and 24' wide and he needs to replace it and he is looking to replace it with a deck that is 10' out and only 15' wide starting at 2-1/2' from the front corner of the house going 15' towards the back of the house and on top of that they are going to try to put in a three-season room and he needs a variance because the existing structure is too close to Tulip Lane.

Mr. Gutoskey said here is another crazy corner lot like the one we had in Spring Valley.

Mr. Soryal said you are not going beyond what is already there.

Mr. Ponyik said no.

Mr. Gutoskey said it is within what is already there.

Mr. Lewis said it is the same footprint, the pre-existing structure probably needed a variance at that time so it is more of a housekeeping issue.

Mr. Steven Averill, Zoning Inspector testified that he is just going vertical so he needs a variance.

Mr. Gutoskey said but going over the same footprint.

Mr. Averill said correct.

Mr. Gutoskey said it is actually smaller than the footprint.

Mr. Lamanna said so we are going from a deck.

Mr. Gutoskey said it is going from a 10' x 24' to a 10' x 15'.

Mr. Lamanna said and a three-season room that was originally formerly a deck so it is all still within this original footprint.

Mr. Gutoskey asked Mr. Averill to turn on the aerial and asked isn't there trees at that intersection.

Mr. Ponyik said yes, you can't see anybody in the summertime, there are tons of trees.

Mr. Gutoskey said it has the homeowner's association approval.

The board discussed the setbacks.

Mr. Gutoskey said to watch out there is a gas line there.

Mr. Ponyik said the gas line was put in well after the deck, it is probably 3' in front of the deck.

Mr. Gutoskey said he doesn't think there is anybody here to ask if there is anyone here that wants to speak on this application.

Mr. Lamanna said obviously the one foot, it is nothing but he thinks the other, you still have 51' that is more than an adequate side yard.

Mr. Gutoskey said it is because it is a corner lot.

Mr. Lamanna said it is just created by this corner lot and it is already wooded there so the 75' at this point would serve no purpose.

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

Motion BZA 2024-18 – 8346 Eaton Drive

Mr. Lamanna moved to grant the applicant the following two variances for the purposes of constructing an addition (three-season room) on a corner lot.

1. A variance from the minimum front yard setback on the east side from 75' to 74' for a variance of 1'.
2. A variance from the minimum front yard setback on the south side from 75' to 51' for a variance of 24'.

Based on the following findings of fact.

1. With respect to the first variance of 1', it is a de minimis variance from the requirement that was probably unintentional at the time the house was built and there is no consequence to any of the neighboring properties and it is an insignificant variance.
2. With respect to the other variance, the practical difficulty created by the fact that this is a corner lot which creates a second front yard but in this case there is more than 50' which would be an adequate side yard.
3. The lot is heavily wooded along Tulip Lane.
4. This will have no adverse impact on any of the neighboring properties and certainly will not adversely affect the character of the neighborhood.
5. The board also notes that there is an existing deck there so this area has already had a structure in it and the applicant's proposal is a replacement of this existing deck, combination of deck and a three-season room, so there will not be any increase in the footprint that already exists into this area.

Mr. Lewis seconded the motion.

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

Since there was no further testimony, the public hearing was closed at 8:37 P.M.

Respectfully submitted,

Brent Barr, Alternate
Ted DeWater
Devon Gamble
Joseph Gutoskey
Michael Lamanna, Chair
Todd Lewis, Vice Chair
Emeil Soryal

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

Date: July 18, 2024

AUDIO RECORDING ON FILE

Bainbridge Township, Ohio
Board of Zoning Appeals
June 20, 2024

The regular meeting of the Bainbridge Township Board of Zoning Appeals was called to order at 8:37 P.M. by Mr. Michael Lamanna, Chair. 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. Lamanna moved to adopt the minutes of the May 16, 2024 meeting as written.

Mr. Gutoskey seconded the motion.

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

APPLICATIONS FOR NEXT MONTH

Application 2024-19 by Bainbridge Associates, Ltd. II LLC for property at 8564 E. Washington Street

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

Application 2024-20 by Lee Ann Jones for The Lube Station for property at 8381 Washington Street

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

Application 2024-21 by Dale Krause for property at 8435 Eaton Drive

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

Application 2024-22 by Valerie Lococo for property at 8497 Tulip Lane

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

Since there was no further business, the meeting was adjourned at 8:52 P.M.

Respectfully submitted,

Brent Barr, Alternate
Ted DeWater
Devon Gamble
Joseph Gutoskey
Michael Lamanna, Chair
Todd Lewis, Vice Chair
Emeil Soryal

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

Date: July 18, 2024