

Bainbridge Township, Ohio  
Board of Zoning Appeals  
September 19, 2024

Pursuant to notice by publication and ordinary mail, the public hearing was called to order at 7:04 P.M. by Mr. Michael Lamanna, Chair. Members present were Mr. Ted DeWater; Ms. Devon Gamble, Alternate; Mr. Joseph Gutoskey and Mr. Emeil Soryal. Mr. Todd Lewis 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 and 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.

Ms. Devon Gamble, Alternate joined the board for consideration of the following applications in Mr. Lewis' absence.

Application 2024-25 by Troy and Tela Sutton for property at 19140 Elizabeth Lane

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

Mr. and Mrs. Troy Sutton were present to represent this application.

Mr. Lamanna swore in Mr. Troy Sutton and he let the record reflect that Mr. Sutton was duly sworn.

Mr. Troy Sutton testified that he is here with his wife Tela and he wants to give a short presentation. He said they are applying to build an accessory building, construction already started and they did receive a building permit from Geauga County and he will go through some of that timeline if the board permits him to and he is providing a Power Point presentation. He said this is a rendering of what they are trying to construct, it is a 32' x 48' long building. He said he and his wife moved here from Indiana and this was always their plan to put an accessory building, kind of hobby building, he does a lot of woodworking, metalworking that he will get to later but it is actually an identical size building from what they moved from, from their Indiana homestead. He said just in the agenda he wanted to cover what it is they are asking for, why they are asking for it and review the aesthetics of the building, he knew that there were some concerns about a septic leach field that he also wanted to cover and then cover questions and comments later on after the presentation. He said you can see this is what they are proposing to build and he has met with three different excavation companies along with some landscaping companies to make sure that the trees that were removed from the property made sense that everything he thought was above-board, he did halt the construction which you will see here in a minute as soon as Mr. Averill informed him that there was a zoning concern. He said this is not the first building that they have built by a long shot so again, and this is not an excuse they are not from here so they did not realize

that there was a zoning requirement and a permit requirement and you will see based on his timeline that he had multiple meetings with Geauga County Building Department and the Geauga Engineering Department as well because this process just seemed like it had a lot of questions in it and it made him a little bit more nervous than some of the other buildings that they put up in Indiana. He said they also just put up a building in Cambridge, Ohio as well but this is what the building is going to look like, and he will say that the renderings make it look really dark, he couldn't figure out how to tell the story with some of the accent pieces and stuff through the computer software. He said he is an engineer by trade so they did these renderings to try and kind of show roughly what the building is going to look like and they tried to make it look really nice with the stone wainscoting and the cupola on the top, not just some sheet metal building that they are going to throw up and make it red or yellow or some offensive color. He said this is not exactly what it would look like, again, it was kind of hard for him to find representation but a lot of people these days with the new aesthetics that they are running with a darker color. He said this is like a darker charcoal color building. He said it is really hard to see here but this building he picked it because it does have this stone wainscoting on the bottom, it makes it look nice in his opinion, again not just this stainless steel pole building that is being thrown up kind of willy nilly so he is working with a company, they are called Swiss Construction, they are Amish based, they are definitely not the cheapest, he chose them because they have built other buildings in the area and he was led to believe that they could have some good advice for him and they knew Bainbridge and they knew Ohio but the building itself is 32' x 48' under roof and again that site was chosen because that is the building that they had at their Indiana home. He said he does have a number of items he is sure you know he has a number of neighbors here and he wants to thank them all for coming and they have probably seen in his yard or stored in the driveway from time to time mowers and, unfortunately, a number of trailers, campers, kayaks, lawn mowers and like he said he does quite a sizeable amount of woodworking. He said his father-in-law has a sawmill so he saws some beautiful live edge slabs for him and things like that so he makes tables and furniture so if you guys were to see inside of his house there is a lot of homemade furniture and he built his bedframe and his kids' beds and everything like that and he also does a lot of metalworking where he does little metal turnings and things like that so still in Indiana is basically his full woodshop that includes a Bridgeport, an engine lathe, a bunch of different tools, larger jigsaws and just things like that and they also have a mini-tractor that they haven't brought up here yet to just do odds and ends mainly things around the yard with it so that is kind of why and when he initially met with Geauga County in January of this year he thought he was doing the right thing, he went to them and talked with Kathy and the other people there and they simply told him that his size requirement was 2,000 sq. ft. and his setbacks were 15' on each side. He said he realized he should have done more due diligence but again he thought that he was doing the right thing by going to them and having these conversations and he will share that timeline. He said one of the variances they are asking for is the building is currently 1,536 sq. ft. so that is the 32' x 48' under roof size so that is a variance of 621 sq. ft. from his lot size, his lot size is 1.91 acres.

Mr. Sutton continued by saying the other interesting thing about that that he has learned since buying this property is, in Indiana you own the ditches so technically our lot size is over two acres, it is just shy of 2.1 however when you see the map which he will show in a minute, we don't own the ditches so it comes out to 1.91 acres so this is one of the main variances they are asking for is the size variance and even for the size, about the building placement again they worked with a company that they have seen in their neighborhood quite a bit called Wolf Scapes that does a lot of landscaping work and they came out and consulted with him and Moore LLC consulted with him as well as Cowboy Earthworks, all local companies to the area to figure out what trees could he remove and they talked a lot about building placement and again, thinking that their setbacks were 15 – 15 because he really wanted to keep the building hidden. He said there are eight other buildings in the area that are very similar to this one so again he had no reason to think that what they were doing was off base or off kilter in any way and as you can see here the from 7991 S. Riverside, that is actually Mr. Hodge's address, he is here tonight, it can't be seen and even from the stop sign which is the stop sign between Elizabeth and S. Riverside the building really can't be seen and if you look at this view here, he referred to the aerial displayed, there is his truck, but the building can just barely be seen through the trees and that is driving down Riverside Drive. He said that is the most you can view it from the street, it is actually that photo right there, not zoomed in obviously but also not zoomed back, just a real view photo so they feel that it is pretty hidden at least as much as we could hide it. He said again, when Mr. Averill came to his property they were actually under construction and as soon as the day, the minute that he figured out that they had a problem he halted construction so all the sheet metal and building materials are actually still on his property now, there was a lot of discussion back and forth about well just throw the sheet metal on to protect the wood throw the sheet metal on to make it look better but he didn't want to do that because he sent the guys home, pay the penalty for that which is fine but again just the placement of the building, top picture here is actually 115' onto his property so they have a 1.91 acre lot and his is taken from a turn-round that was existing when they purchased the property but that is again the most that anyone can really view the building and then he included some photos of just the current state where he stopped construction here which is stick frame and they actually have some of the windows in, the windows on the porch side are not, the windows in the back are not in and then they also have to add another door so this door shown here in the lower left is the entry door, they did not have a chance to mount the door to kind of access the backside porch. He said this is where they stand so the building placement, again, you can see where, he was just under the impression that they own the ditches which we don't, that is part of the county, but we are asking for a 7-1/2' variance from the rear side which you see here, we are at 42.5', they are also asking, the building is what they call square to the streets, however his property line is kind of at an angle so he worked with Ron Ferris who is a surveyor and he has the survey map as part of your packet here and he really helped him layout where the building should go so his information from Geauga County and Mr. Ferris' information was that the setbacks were 15' so thankfully they didn't abide by that because there was a better spot which ended up being 42-1/2' and 30' from the adjoining property and not knowing that Bainbridge required a 50' and 50' setback on a corner lot.

Mr. Sutton continued by saying the other information that they didn't know is that corner lots are fairly restrictive in Bainbridge Township so his neighbors for example, their setbacks are only 20' but because he is on this corner lot his setbacks, thankfully, Mr. Averill informed him that they are 50' and 50' so that is another variance that they are asking for you for today. He said again, when he did this layout and he is an engineer by trade so when the first time he visited Geauga County he did not have the property documentation, we are very used to showing up with hand sketches in Indiana and even southern Ohio and say hey this is what we are thinking, they accept the money for the permit and we move on. He said Geauga County wanted engineer drawings which he supplied after he figured it out but they actually helped with the site layout map, they are actually the ones that recommended that he get another survey and he thought that he found one survey pin which is back in the corner there but he wasn't really sure, to him it just looked like a piece of rebar, there were no markings or coloration to it. He said Mr. Ferris through Ron Ferris Surveying came out and said yes, that is actually a survey pin and he helped him locate the other ones on the upper right-hand corner, the lower left-hand corner and then as part of helping him layout the building, knowing the area that he was in he added some supplementary stakes in-between that they could draw their building lines from so again he went to the Geauga County Engineer's Office and he believes it is called because he had concerns about the driveway, he was dead set that he needed a permit for the driveway and after sitting there for a little over an hour they said actually because they are not asking for a new address the driveway does not hit the street they indicated that he could do essentially whatever he wanted so as you can see there the 8' wide dimension they basically just did a sweeping path and the reason there is a sweeping path is because they missed two old growth trees that they felt were imperative to help hide the building so they kind of snuck in there and then there is a 20' depth turn-around there or an area where you kind of swing in the building. He said they tried to be the least amount of intrusive as possible and cut down the least amount of trees. He said they did cut down 26 trees to make this work, other areas they probably would have been up into the fifties and he felt that that would really expose the building more than what it needed to be so thank you, this is just a timeline, he doesn't think he will go through every single bullet point but it is important to him after talking to Mr. Averill that he did not think that there was a problem, it is really important to him and his wife Tela and our two kids that we are up front, we are trying to be honest people and this conversation started in January, he went up in March with the wrong paperwork and they let him know that and corrected him and told him what they needed to see to issue him the permit and then on April 15<sup>th</sup> he received the permit and it wasn't until August 8<sup>th</sup> that the construction actually began so he wasn't in any kind of a hurry, he wasn't trying to rush anything, he thinks the neighbors we have here would attest that he has had a sign in his front yard for a long time letting people know what we were doing but we did run into some surprising things along the way and one of them was a weird field that wasn't where it was supposed to be and once we got into it, we did our research, he received a permit, worked with the county several times, the health department was at his property three different times to just review and review options of what they could do so they did incur a cost of installing a new septic system and that was installed August 17<sup>th</sup> and in a later slide you will see that he asked the company to invoice him in early June.

Mr. Sutton continued by saying he just had to get on their books and have these meetings with the health department and figure out what was possible and what we could do because in Indiana, they are a lot more lackadaisical and they would have just said rip your rear field out and put in a new one, and give them \$300 but Ohio is a little bit different. He said the green sticker here is actually the second building inspection that we received from Geauga County and actually the day that Mr. Averill came out and let him know that there was an issue, the building inspector was there, signed off on the work and that was the second inspection, the first inspection was the footings of the building to make sure that they were properly drilled at the right depth with a cookie, a big concrete disc where the post sits on top so not only did he meet with the county, his construction company, Swiss Construction also reviewed all of his documentation to make sure all of his ducks were in a row. He said he had concerns about things like temporary power because they didn't ask him for a drawing, they didn't ask him for very much information and he was just nervous because he was going to put 60 amps on a post so he would actually have a temp power permit that he has not used yet because they halted construction so there was a lot of communication here back and forth with the county but again just his ignorance not knowing that a township was different than zoning and permitting were three different processes. He said this is probably immaterial for this meeting but his wife Tela, who is here tonight and her father who is recently retired, he is building a barn in Cambridge, Ohio and again realizing these are different municipalities and it is two hours south but we follow the same exact process, he asked me for my help because he is an engineer and he does drawings for a living so he drew his building for him, did a site map for him, helped him with construction and that process was a one stop shop just like we are used to in Indiana. He said they went to the local municipality with their plans, they issued the permit, zoning, everything was done and again this was two weeks after he applied for his permit so until Mr. Averill showed up when he did he had no idea that they were not in compliance with anything, and again realizing these are different municipalities but we thought we were doing the right thing. He referred to the Power Point presentation and said this talks about the septic system, here is the proposal which was on June 13<sup>th</sup> when we figured out that there was an issue, to the right is a building permit which the board members have the full-length documents in their packet. He said he has learned so much about septic systems, more than he cares to know since from June to now and he has learned about rules and regulations behind them. He said he just wanted to again show that he is not trying to bury a couple of 55 gallon barrels in front of the septic or anything like that, as soon as they figured out they had an issue he immediately called and asked and part of the reason between the June and the August dates are, to be honest, he had to get on their schedule and it was a sizable expense for them, it was about \$16,000 to get this put in. He said they are a single income family of four and they had to find out how they were going to pay for it so it took them about a month to figure out how they were going to justify this, they got on the schedule but its done. He said there is an approval in your paperwork where the health inspector came out and just kind of did a checklist of everything. He said on top of it he did learn that every septic field is either four 150' lines or five 100' lines, he had five lines, two 100' lines and they were completely blinded with tree roots and debris and everything else so it is something that they would have eventually had to have taken care of, did we want to take care of it necessarily when we did, probably not but it is what it is so that has all been taken care of.

Mr. Sutton continued by saying when they bought the property in 2019 they did get a septic field inspection and it passed, to be honest he is not sure what that entails but he was told that these were probably pretty blinded at that time as well so that is his presentation, he has all of his contact info here, his main goal is to just let everyone know that this was in no means was him trying to side skirt the rules or regulations or side skirt paying fees or anything, to be honest we are into this right now pretty close to \$50,000, he thinks the total bill right now is \$46,000 so he would not risk that money knowing that there would have been this problem going forward.

Mr. Lamanna asked if anyone has any questions.

Mr. Soryal asked if the woodworking and metalworking you have, this is all hobby right, this is not a business.

Mr. Sutton said no, it is all hobby unfortunately.

Mr. Soryal said you just mentioned some big machines and things like that, he just wanted to make sure.

Mr. Sutton said no, like a Bridgeport or a small lathe for turnings and things and it goes along with the sawmill which will not be at this property at all, it is a big sawmill but actually Tela's father has it and it is a big hobby for him live edge slabs so he loves to take those and meddle around with them and make them into tables and stuff like that and he also does a lot of welding and he makes trinkets and sculptures and stuff. He said he doesn't own any boats or anything like that, it has been his hobby to make things with his hands because he is an engineer by trade and he knows a lathe sounds probably as big as this table but the lathe is a bench top unit.

Mr. Soryal said he understands.

Mr. Sutton said probably the largest thing that he would like to put in there is a two post car lift so he can do all of his automotive repairs for example he has a pickup truck and this weekend he replaced the entire front suspension because it has gone bad so he is a Director of Engineering for a pretty large company so we are very fortunate and that allows him to have some of these hobbies.

Mr. Lamanna said if you put in a lift are you going to put in any sort of means to make sure that fluids can't leak into the ground.

Mr. Sutton said that is a good question so he will budget this, they have a roller pan for dropping a transmission and he doesn't plan on doing anything like that to be honest it is mainly a hobby that his dad and he has where his dad and her dad actually restore some cars, he is looking to do brakes, pull the wheels off, suspension stuff like that and if it was a large project like an engine or transmission he would not be able to undertake that here he would probably take it back to Indiana.

Mr. Lamanna said yes, because obviously we have got a lot of well water around the area and if somebody is conducting those kinds of automotive applications and you know it would be highly advisable to.

Mr. Sutton said yes.

Mr. Lamanna said it is not paved, it is not like it is a garage, if you spill over in your garage.

Mr. Gutoskey asked if there is going to be a concrete pad inside.

Mr. Sutton said yes, that is the plan eventually, the whole project has been very expensive.

Mr. Gutoskey said he had a question, and the first one is on your Geauga County building permit, the first page, it says on the bottom "You also need to provide all additional required permits, zoning, sewer, septic etc." so that is on there.

Mr. Sutton said understood.

Mr. Gutoskey asked if his septic is an off-lot discharge.

Mr. Sutton said currently, yes.

Mr. Gutoskey said the replacement one that they put in because there wasn't enough room to put lines on the lot.

Mr. Sutton said correct, so they told him that he had two failed rear fields, the kind we just replaced and we didn't have room.

Mr. Gutoskey said and then you are going to have some kind of toilet, sink or something in the barn. He said the only reason he asks is it is on your septic paperwork.

Mr. Sutton said he is sighing just because of the money.

Mrs. Tela Sutton said she wants one.

Mr. Sutton said to be 100% honest they will probably get the sheet metal on the barn and let it sit for a year because of the septic system and all of the additional costs because of the construction over-ran, but no that is not really in the plans. He said he did dig a trench but the contractor dug a trench 48" deep and we went ahead and ran the power for temp power for 60 amps and then they talked him into running a 3/4" blue line. He said the county said that and it is not hooked up to the house, it is just run and they said as long as it just sits out there he won't need a permit and trust him he doesn't want to get in any trouble, when that time comes when he wants to put an outside spigot on he will get a permit because he doesn't want to get into any trouble but that is there currently.

Ms. Gamble asked if there is a building permit.

Mr. Sutton said yes, so the building permit, they gave him a green laminated placard and since then it blew away, he put it on a tree and was concerned about it so he actually called them and they said actually it is all done on a computer now and he talked to Dan Spada and he said no worries because they would charge him more money to get a new one and he said he just comes out and gets on his computer anyway so he didn't worry about it, that is why he just had the receipt.

Mr. DeWater asked what he uses the 20' equipment trailer and the 24' enclosed trailer for.

Mr. Sutton said the 24' flatbed, they had a Skid Steer, a mini tractor and some other stuff, the Skid Steer never, he did have it temporarily in Aurora just to do some of the excavation work but it mainly lives in southern Ohio or Indiana to go back and forth. He said it is just something that he bought and he also has a car and a truck and he uses those to pull it back and forth between Cambridge, Indiana or whatever. He said he used to have a 7,000 lb. trailer but then when they got the Skid Steer he couldn't pull it with that.

Ms. Gamble said she just wanted to ask when he mentioned the note on the application and it says zoning down there on the front if he saw that.

Mr. Sutton said definitely after the fact, yes.

Ms. Gamble said because you got the septic and the driveway and the other permits that were required but not the zoning.

Mr. Sutton said yes and actually the septic, he had no idea so he inquired with the county about the septic and they indicated, this is a site map, the county indicated that the septic was to the north if this is oriented correctly, to the north, they had no idea even when they purchased the property that it went to the west so essentially they started clearing the land, cut down the trees and he thinks it was probably the first cut he made he hit this white pipe and he had no idea what it was, it was only about 4" deep and the systems in Indiana are 36" deep and what he since learned is because this area is high in clay, they bury them very shallow and to be honest he didn't really believe that because to him it is going to freeze in the wintertime and it did and a lot of the pipes were broken and cracked and things like that from freezing so to be honest he did not have a septic permit because he didn't know he needed one until roughly June and then figured out because it honestly took him probably a week to even figure out that it was septic. He said the initial pipe he hit did not have drainage holes in the bottom, it was just a solid white pipe with a cap on the end so even though this is a house that was built in 1978, what is this but then as excavation went further they figured out that it was part of the septic.

Ms. Gamble said she doesn't mean to reiterate but when you saw that and she doesn't know if you (Mr. Sutton) answered, did you read that part or was it an oversight.

Mr. Sutton said he wouldn't call it an oversight, he assumed that zoning and permitting were in the same building especially because we went over the site plan and they helped him with the setbacks and told him the building size because to be honest in Indiana, we lived on a farm and setbacks weren't anything he was familiar with so they helped him define that and said 15 – 15, 2000 sq. ft. maximum for the building which would have been a massive building for the lot. He said so did he see it, yes, did he think everything was in order when they gave him the building permit, especially when his contractor reviewed all of his documentation on the 6<sup>th</sup> of August, he thought okay cool, these people have built here before and they are familiar with the area, him not so much, so yes, he did see it but he thought everything was in order.

Ms. Gamble said okay.

Mr. Gutoskey said he had a question, the paperwork that was put together for the variance, it says "Whether the variance is substantial" and you have a line in here "We are a few feet too close but placed based on county regulations", but you understand it is township zoning, currently.

Mr. Sutton said today he does, absolutely.

Mr. Gutoskey said another one, it says "Former buildings in Ohio require no additional steps from building permitting." He asked what that means.

Mr. Sutton said that is in reference to the Cambridge building and some of his coworkers are actually building buildings in Novelty Ohio, South Russell.

Mr. Gutoskey said there is a difference, Russell is a township and S. Russell is a village.

Mr. Sutton said where he lives is a township.

Mr. Gutoskey said Bainbridge Township, not Aurora, because you have an Aurora address.

Mr. Sutton said that is a great point, he was so nervous because he actually went to Aurora because his address is Aurora, he is in Geauga County, technically Bainbridge, his children go to Kenston so he actually went to Aurora first and they said no just go up to the county and that is where you get all of your paperwork and he said okay but his address is Aurora, 19140 Elizabeth Lane, Aurora, Ohio 44202 and they said it doesn't matter, you are right on the line.

Mr. Lamanna said where you pay your taxes, that is the way to find out, look at your tax bill and see who is assessing the taxes, you will know where you live.

Mr. Sutton said and then there is the RITA tax thing.

Mr. Lamanna said Aurora City has an income tax.

Mr. Sutton said he works in Aurora and his address is Aurora. He said it is his own ignorance, he is not making excuses it has all been very confusing.

Mr. Gutoskey said another question he wanted to go over is on F. You indicated the building was 70% complete but you are probably what, 30% maybe.

Mr. Soryal said no concrete, no roof.

Mr. Sutton said the builder Swiss Construction said they need about a day to put all of the sheet metal on.

Mr. Gutoskey asked if the roof is metal.

Mr. Sutton said it is but it is all stick frame and he apologizes, he is not in construction, he used that percentage based on what they told him.

Mr. Gutoskey said so you are talking about how it is nestled back in the woods around the trees, what happens when the leaves fall, are they deciduous trees or are there any Pines. He is saying once Fall comes through and there are no leaves, you are probably going to see it.

Mr. Sutton said yes, so they were originally going to work with Wolf Scapes but he thinks he is actually going to work with Moore LLC and they were going to put a line of evergreens, things that don't lose their leaves down the entire side here and then sporadically and in the front, they already own some evergreens, that are scattered in the front woods there, that is one of the reasons that they picked the location, he worked with some people to figure out what trees to cut down and what trees not to but none of that has been done because he put a stop work order on everything so the goal was to plant those in November and he is a little bit afraid that they missed their window so they will probably wait until, they told him, April to make sure something about how they live or water and everything.

Mr. Gutoskey said the lean-to on the left side, what is going to be under that, is that storage or what is that going to be used for.

Mr. Sutton said porch, to be honest, yes porch, it gets a concrete slab foundation out in front of it, the door is not installed so the way that Swiss does it is they frame the entire building and then they come back and they cut out the windows and they cut out the doors and everything like that. He said he is actually missing four windows and the door.

Mr. Gutoskey said he has a question for the zoning inspector. He asked Mr. Averill how he found out about this.

Mr. Steven Averill, Zoning Inspector testified that he got a phone call.

Mr. Gutoskey said he didn't know if Mr. Averill was driving around and saw it.

Mr. DeWater said he has a question about the canopy. He said if you are going to use it as a porch why would you have it on the side that is closest to your neighbor, why wouldn't it be on the other side towards the inside of your property where it makes more sense.

Mr. Sutton said that is a good question, it is supposed to actually be a double porch but we figured out that we ran out of money before they framed out the front and the back was already framed out to be honest but the plan is to have a double porch and then in the front, both are concrete, they are going to get a permit to run gas, his house is electric but they do have a gas fireplace, run gas out and do like an outcropping in the front with a gas firepit but again they kind of ran out of money and they already had the back framed in. He said again, to be honest, the concrete is delayed, it is something that he and his wife have to figure out because this whole thing ran so far over budget, it will probably not be utilized for at least two years until they can save and figure out what they are going to do from here.

Mr. DeWater said the way he sees it with the canopy is why he asked about your trailers, if you've got a camper and two trailers, something is being parked under those canopies, it is not going to be a porch with chairs or benches, you are going to be storing equipment under that and he doesn't think your neighbors will ask you that.

Mr. Sutton referred to the site layout and said if you see this and if you actually visit the property he doesn't know how to park something under that and it is under 10' wide so the outside dimension is 10' with 6 by 6 posts, that includes the overhang so it is actually pretty narrow and maybe a better professional than him is just back something in here and get a trailer in here, for example, the construction company couldn't even back, they had a 24' flatbed, and they got stuck in the mud somewhere over here, in front of his building so this is just extremely tight by design and then this is only about 20' deep so even his pickup truck that is one of the pictures, it is like a 5 point turn so to angle it out so if he was pull it in here it is hard to pull out now the truck can pull in to the door here but to back something in and to cut that corner he doesn't think it is possible, he apologizes, he is trying to do the math in his head.

Mr. Averill said you've got 10' minus the post.

Mr. Sutton said yes and 10' is actually including the overhang which is 8". He said it is relatively low, he would have to take a measurement, he is going to guess maybe it is 8' tall at the edge, probably a little shallower than that.

Mr. Lamanna asked Mr. Averill if there is no issue with total lot coverage here.

Mr. Averill replied no.

Mr. Lamanna asked if this lot was over 2 acres what would be the maximum size.

Mr. Gutoskey said 1,280.

Mr. Lamanna said 1,280 alright, that is a reference point here. He asked what other accessory structures are in the area.

Mr. Averill said there is one at the end of the street and they all have permits. He said this one is 50' x 45' and there is a building on the back end as well. He said there are a few, these aerals are from 2021. He said he thinks he found about five of them in the area here and said this is the biggest one here at the end of the street.

Mr. Gutoskey asked if there is anybody in the audience that would like to speak.

Mr. Tom Vokas asked to speak.

Mr. Lamanna swore in Mr. Thomas Vokas of 17477 Trillium Drive and he let the record reflect that Mr. Vokas was duly sworn.

Mr. Thomas Vokas testified that just by coincidence this particular house up on the screen happens to be a customer of ours and he has been to that home to make deliveries and it looks really nice because when he went to that home he looked at that and said this guy did a beautiful job putting this outbuilding here the way it configures, it is a substantial size building but the way it was put on that particular lot it really looks really nice back on that culdesac and he doesn't think it detracts from anything in that area so he just wanted to make that comment.

Mr. Lamanna swore in Mr. Russ Roark of 7880 S. Riverside Drive and he let the record reflect that Mr. Roark was duly sworn.

Mr. Gutoskey asked Mr. Roark which side his property is on.

Mr. Russ Roark testified by saying the left. He said for him as far as the barn being square to the road, it is not. He referred to the aerial displayed and said this is his property and here is our kitchen and where we eat dinner and the barn is roughly right here on a diagonal, it is diagonal cut through here, you can see our playground, it overlooks our kids' playground, it is even further back than his kids' playground. He said from as far as not seeing it from here, sure he gets it, but when you come in through here over the top of his house you can see the barn, you see the wood structure. He asked if he is allowed to ask questions. He asked if the construction company is local, the barn company.

Mrs. Tela Sutton said yes, they are local.

Mr. Roark said so they are familiar with codes or zoning.

Mrs. Tela Sutton said yes.

Mr. Roark said because they were starting chainsaws up at 6:45 in the morning to do the poles and hurry the project along.

Mr. Lamanna said there are no rules in Bainbridge Township about that.

Mrs. Sutton said but your concern about your kids.

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

Mrs. Sutton testified by saying about your kiddos, you are pretty private, we are also pretty private when we are in our back yard, we do not like people entering our property, we do not like people looking at our kids, we let our kids get in the hot tub in their undies or whatever so your concern is very valid, yes we have two girls so that is what Troy was talking about, we are looking into trees, she doesn't know how to explain this but yes your concerns are totally valid and she gets it and she can see where you (Mr. Roark) are coming from.

Mr. Roark said it overlooks his whole backyard. He referred to the displayed aerial and said it is on an angle, this is where we eat breakfast, lunch and dinner. He said the angle here, the barn door is pointing right at my house and so any extra lathe noise, it is as far away from their house as physically possible for noise, for dust, the barn door points right to our dinner table.

Mr. Gutoskey asked Mr. Sutton if he had the property surveyed.

Mr. Sutton said correct.

Mr. Gutoskey asked if the surveyor set the stakes on the property line.

Mr. Sutton said correct.

Mr. Gutoskey asked if the surveyor laid out the building.

Mr. Sutton said yes, he would say not officially, he helped with a laser tool so they set the stakes officially, noted the original stakes that were there and they helped laser over from that line.

Mr. Gutoskey said so your surveyor measured off of the stakes that were set on the property line to where the size of your building would go.

Mr. Sutton said yes.

Mr. Gutoskey said because your neighbor is questioning, we have a drawing that you gave us here and he is saying that the building isn't set.

Mr. Sutton said the dimensions show at one corner it is 30', the other corner is 35'.

Mr. Gutoskey said so it is square with the back property line, it is parallel to that property line.

Mr. Sutton said this 42 dimension, it is plus or minus 6" but this corner it is 30' and then to this very front corner it is 35' so it is for all intents and purposes it doesn't match this angle at all.

Mr. Gutoskey said when you set the building you were trying to set it parallel to the back line.

Mr. Sutton said it is parallel to the back line that was the goal and then actually if you notice the house, the house is kind of weird at 45 but yes and if anybody wanted to double check this, it is 30' here and more than 35' here.

Mr. Roark said the door is absolutely equal to diagonally to the lines, 45 to the property, there is no squareness whatsoever.

Mr. Gutoskey asked how he based that fact, how are you basing that, he had a survey.

Mr. Roark referred to the displayed aerial and said this is the building right here and the barn door is right there, the barn door points directly at my property.

Mr. Soryal asked if it is maybe that your house is oriented in a way.

Mr. Averill said maybe if you see on the Pictometry, he has another program but he can't open it up in here.

Mr. Soryal asked how far would you say that the barn is from your (Mr. Roark) house.

Mr. Roark said almost equal distance, you can see. He said it is fairly equal, you see that there was no nice way to do this with due consideration to where we can have concession and work things out.

Mr. Lamanna reminded everyone that each person has got to talk individually and not together.

Mr. Averill said he can see this on a different GIS program and the west side of the building it almost parallel to this he believes, closer so there is a little bit of an angle on this building but it is probably more in line with his property line.

Mr. Gutoskey said you think it is square with the west line.

Mr. Averill said there is no question that the top corner is closer.

Mr. Soryal said 30 and 35 feet.

Mr. Lamanna said you've got a slightly obtuse angle up there at the top and then you've got the upper left angle is probably 100° maybe and you've got obviously this thing is turned away from that, if it is 35 at one point and 30 in another, he had the property line staked out.

Mr. Sutton said he actually has two other neighbors here, if they could be sworn in.

Ms. Gamble said she would just like to say the point that she was trying to make talking to him was when Mr. Averill was drawing that line trying to measure the distance, she was explaining to him that the way that his property is turned when he drew that line you can tell that not to negate that Mr. Sutton, his building is not perpendicular with his lines. She said it may be, but his orientation of his home from where he sits with his complaint is that you see the front door of his garage, that doesn't mean that it is turned for him to see that.

Mr. Lamanna said right, it doesn't have to be turned.

Ms. Gamble said it is not negating the fact that his building is not an issue so you (Mr. Roark) are going to see it.

Mr. Soryal said how about the evergreen trees that they are planning to plant, would that satisfy you.

Mr. Roark said it would help but they deforested all the way up to the property line and who knows just how far they went but any expectation of privacy is now gone and if he goes into the woods at all it is like he is approaching them. He said they went up to the border and they built the biggest thing they could build, on the border.

Mr. Gutoskey said you do understand they can cut every tree down on their lot.

Mr. Roark said he understands.

Mr. Lamanna said this happens to be a corner lot and actually as far as you are concerned, that is his side lot and that is your side lot, you can build up to within 20' of your side lot only because of the peculiarity that you are not the corner but just because of the fact that he is on the corner he has a greater setback for no really good reason, there is no really good reason for that provision to be in effect here because on both of these cases, in your case and the other neighbor's case those are both your sidelines. They are not your rear lines, they are your sidelines so it would be very easy for us to say we are going to apply the 20' side yard setback because that is what you can do and that is what the other guy can do so it is really more a question of the size of the building and whether this is an appropriate size building for this property at this location.

Mr. Roark said his house is 1,900 sq. ft. so the majority of the houses are under 2,000 sq. ft. in that neighborhood and one of his concerns is, his biggest concern is there are two considerations, we should be having this conversation before ground was ever broke and we could have a lot of concessions, we could agree on size, maybe closer to your house, keep it a little more private, you put it as far away from your house.

Mr. Lamanna said we understand that and we don't like it when somebody comes in because that is exactly the problem it creates for us is that it forecloses a lot of options that could have otherwise been exercised.

Mr. Roark said he would like to think he is an agreeable person.

Mr. Lamanna said we are where we are at this point in time.

Mr. Roark said it could have been done in such a nice manner where he wouldn't even care about the size, along the property line and created like a privacy fence but it wasn't thought about it was just gone ahead and did. He said his other concern is if there is water on the premises, that building can't be used for a dwelling, is he correct.

Mr. Lamanna said that is absolutely correct.

Mr. Roark asked a weekend stay.

Mr. Lamanna said no.

Mr. Roark said his concern is it would be used for a dwelling, someone living back there.

Mrs. Sutton said they like privacy too.

Mr. Lamanna said generally just the presence of a bathroom is not enough, but certainly if they want to put in a kitchen or do anything like that but if there is any question on how the building is being used we place in our decision that we will have a specific statement that this building cannot be used for any habitation or business unless it is a properly permitted use.

Mr. Roark said he knows they do have guests stay and they don't stay inside with them, can he say it that way when they stay over.

Mr. Gutoskey asked do they have a tent.

Mr. Roark said he believes they stay out on the driveway and there is nothing wrong with that but his concern is for is four girls and now somebody stays the weekend in the woods, a sleeping bag in the woods.

Mr. Lamanna said they can't put a structure on it but if they are using a tent.

Mr. Roark said he guesses that is his argument, his house is 1,900 sq. ft. the majority of them are and we could have worked it out so nicely and made it work and now we are here.

Mr. Lamanna said we have got to figure out how to resolve these problems, the problem is here and unfortunately we have to resolve it and certainly we are going to be attentive to your interest in this because of the effect that it might have on you.

Mr. Philip Hodge requested to speak.

Mr. Lamanna swore in Mr. Philip Hodge of 7889 S. Riverside Drive and he let the record reflect that Mr. Hodge was duly sworn.

Mr. Philip Hodge testified that Russ has four girls and we are raising a great granddaughter, Mr. and Mrs. Sutton have two children, it is a good stock neighborhood, we are here though he thought for the variance and aesthetically from our house he can't even see there is a building, there was a picture up there that showed the view from his driveway, you can't even see it and he is basically split between Russ' home and Troy's home and he thought they did a really nice job.

Mr. Lamanna asked Mr. Hodge where he is on the map, so you are across the way looking straight down a it.

Mr. Hodge said the improvements he was kind of amazed that they went through some of these steps, now he doesn't know the details, but he understands the foundation stock and then the septic which he knows is costly and he thinks eventually he will probably have to do it at his place but overall and he respects what everybody is saying, he is pleased with what is going on and he is pleased with the openness that Troy and we have had, they didn't tell him all of the details but we ran into some interpretation things and now we have to go back and ask for permission and he was kind of surprised, he thought this thing was going quickly when they started but that is really it, he doesn't have anything negative to say at all.

Mr. Lamanna asked Mr. Hodge if he has an accessory structure.

Mr. Hodge said yes he does.

Mr. Lamanna asked how big it is.

Mr. Hodge said it is the Sam Inc. property from years ago and he guesses he did a lot of work in this area. He said he is from Bedford and he thinks a lot of the folks in our area kind of have pretty good size buildings, but that is it.

Mr. Gutoskey asked Mr. Averill how big that building is.

Mr. Hodge said he hopes it is like 22 by 16.

Mr. Lamanna said it is 24 by 50.

Mr. Hodge said he doesn't know if that was original, he thinks it was original to when they got it, he is pretty sure. He said they moved in 1998 to Bainbridge.

Mr. Gutoskey asked if there is anyone else in the audience that wishes to comment on this.

Ms. Donna Yania said she would like to speak.

Mr. Lamanna swore in Ms. Donna Yania of 19122 Elizabeth Lane and he let the record reflect that Ms. Yania was duly sworn.

Ms. Donna Yania testified that their property is adjoined or adjacent, they are the first lot into Elizabeth Lane and from our view of our backyard, we cannot now, she knows the trees are deciduous and right now they are all leafed out so all they see is the top roofline, it is sort of nestled in there so we don't have any issue with the appearance.

Ms. Gamble said she has one more question. She said because of the height of the building with the windows, are any of them second level windows.

Mr. Sutton said no, the eave height is 12-1/2'.

Mr. Gutoskey said there are pictures in here.

Mr. Sutton said there is not enough of the entire building to the peak it is like 20'.

Mr. Soryal said the height of the building is 18', you are allowed to go to 28' but you are only 18'.

Mr. Sutton said it is shallow and the cupolas are under 2' but they are decorative, those don't count. He said the windows that are missing are actually just right here and they are mainly decorative and then we are missing some stuff on this side but this is where they were originally going to go before we ran out of all the money another porch off the front with concrete with our gas fire pit and everything but again, what they will probably do or what they need to do is just sheet metal it and then he has to walk away for probably a year so they won't even occupy this for quite some time.

Mr. Lamanna asked if they have plans for the standard white garage door on there.

Mr. Sutton said no it is a darker color and he apologizes, the rendering wouldn't allow him to change the color.

Mr. Lamanna said so it is going to blend in a lot more, it is not going to stand out nearly as much as a white color.

Mr. Sutton said it is hard to get accents to stand out in the cad, it is very similar to Slide 4, but also not white.

Mr. Soryal asked Mr. Sutton if he can go through where the trees that he is planning to plant are going on the site.

Mr. Sutton said absolutely, so there is a line of trees here but also he needs another consultation but they were going to start peppering trees through here so that way it wasn't just a straight line. He said there are already some evergreens out in this area already actually he is relying on Moore LLC will tell him, okay from the street and we will probably pick those locations when the leaves fall but he knows that there were three through here and a couple through here, the bill is about \$17,000 worth of trees and then over here offset from this roughly 12 feet, a line of trees, one every four feet and they are evergreens, they told him the name of them but he can't remember. He said they actually have several of the same right here, he planted a few here and there is already one here planted there is one over here planted and it is the same version of trees. He said the version they planted are only that tall and the reason for the big bill is because they wanted them to be 48" tall when we got them and it has got a big ball on the bottom.

Ms. Gamble asked if there is a plan to plant those trees in the interim of the halting of the project.

Mr. Sutton said to be honest they were going to be planted in November, again he halted everything so he has to reconvene with Moore LLC and see if they have availability to do it, if not he guesses with trees like that do they have to be planted in the Fall where there is a very short time in the Spring. He said he believes it was March or April, he has to go back to his emails but yes, the goal is to have those planted now because he doesn't want to offend everybody or anyone, he just wants to mind his business and have privacy and not have this thing stick out.

Mr. DeWater asked if he would consider planting trees down between your porch and the property lines to the back of your building for shielding too.

Mr. Sutton referred to the aerial and asked are you talking about this back here.

Mr. DeWater said between your porch and the property line, that whole length of the building.

Mr. Sutton said yes, one every four feet is what he was planning, he would have to find out if they can be closer together.

Mr. DeWater said it would be more like 15' apart because trees grow and you would end up removing them.

Mr. Lamanna said you would stagger them.

Mr. DeWater said you might be able to get it down to 10' apart.

Mr. Sutton said what he was told is they will grow to touch each other and then they won't grow in diameter that much more and it will stunt their growth but he can definitely find that out.

Mr. DeWater said a lot of residents that come in for projects, they plant screening, they will put trees a substantial size to help screen out from the neighbors and he would think that that would go a long way to do that. He said he would also, me personally, would have had him put that porch on the other side of the building and he thinks he might approach his builder now and put it on the other side, that would go a long way. He said that is why he asked you the question if you are going to put any equipment under there, that side is away from your house, things seem to get stored there, you said you've got a Skid Steer and tractor and implements, you don't want to see it from your house, you are going to spill it on there.

Mr. Lamanna said that would be very easy, he already made that note on there, no outdoor storage of equipment and all that kind of stuff on that side.

Mr. Sutton said so again, to be completely transparent, we cut \$12,000 out to not do the front porch and they wanted \$5,600 to move it.

Mr. DeWater said it might be money well spent.

Mr. Lamanna asked if he is planning on coming around in the front of the building at all because he was just thinking from his standpoint you are looking at the front of the building, not some more of the side. He referred to the rendering and said he is looking this way so he sees the front of it much more than seeing the side of it.

Mr. Roark said all of the noise is going to come that way.

Mr. DeWater said it would be more useful for your neighbor.

Mr. Lamanna said you can actually go farther back because you are just running from that, we are going farther and farther from them.

Mr. DeWater said come right up that side and wrap right around the front.

Mr. Gutoskey said what about the building size.

The board discussed the size of the proposed building.

Mr. Gutoskey said what the board is talking about, you are so close to two acres, you are 1.91 acres and if you have two acres you could do a 1,280 sq. ft. without a variance so on that, looking at that, you are only over 237 sq. ft. and then the board was talking, maybe you could take a bay off and get down to that but it doesn't really solve anything.

Mr. Lamanna said it is not going to look any different where people are looking at it from, that is the biggest thing, it is sort of a pointless exercise, if he is looking at a building like this it is a pointless exercise to say let's make it smaller by cutting off the back, it still looks exactly the same to him.

Mr. Roark said from his dinner table, that is the point. He said you go around the rest of his yard and you can see it pulling into his driveway because it sits higher than his house, over the backdrop of his house, it is in the backdrop of his house, if he is going to sell his house.

Mr. Lamanna asked how much the elevation changed.

Mr. Roark asked how much elevation do they have.

Mr. Gutoskey asked Mr. Averill to turn on the contours. He said it is only 2' lower than where his is because you see the one contour goes through the house so it is only 2', it is about 2' lower than that house next door.

Mr. Lamanna said it is not really sitting up there.

Mr. Gutoskey said no it is not it is actually lower, and then you've got the ravine going through there.

Mr. Roark said and another concern he has, because the trees are down and all of that was forested, but they are so thin and all of the trees in the forest fall southwest and we get our winds from the northwest and that is exactly where his barn is so what about when one of his trees comes down, right on his barn, they are thin.

Mr. Lamanna said that is actually his problem.

Mr. Roark asked if it is an Act of God.

Mr. Lamanna said where the tree falls, the tree falls and it is the responsibility of where the tree lands, so wherever the tree lands, it is up to the property line on each side.

Mr. Roark said you are right, it was just his concern.

Mr. Lamanna said he wishes all of the trees fell that way because he has trees in the back of his property and they never fall with the prevailing wind, they fall on his property even though it is against the prevailing wind, he doesn't know how it happens but it happens and the trees don't grow that way they grow to the sun.

Mr. Roark said going through the zoning resolution, 161.08, the setback for corner building lot structures, on the corner of the principal building is or and its accessory building, structures shall be required to have the same setback distances from all streets, right-of-ways, Elizabeth and S. Riverside.

Mr. Gutoskey said all that means is that the building setback is parallel and offset from the right-of-way line.

Mr. Roark said equal distance.

Mr. Lamanna said what it means is there are two front yard setbacks on this property so anything built on the property has to be setback from the two streets as if they were both front yards.

Mr. Gutoskey said right, that is what that means.

Mr. Lamanna said now that the perverse thing is that the zoning requires, it makes them, because the way the definition is set up, rear yards, but they really are not rear yards.

Mr. Averill said if you build a building 300' from the road, one of them has to be 300' from the other. He said the first portion of that section refers to the setback being the same on both streets and then the second portion, which is the front setback which isn't even in play here, the second section, 161.08 said the zoning inspector shall determine the appropriate application of the required minimum side and rear yard setbacks, those are the other setbacks, the first version of that refers to the problem.

Mr. Roark said but you never had a chance to choose the location.

Mr. Averill said he did choose it at 50', that is what is required, he can only require it because it doesn't tell him that he can, he can tell me what he wants, all he can tell him is what is required, the minimum is 50' so that is why he is here.

Mr. Lamanna said it is 50' because it is treated as a rear yard.

Mr. Averill said so on the same property line you can build up to 20' from that property line.

Mr. Lamanna said so one of the things we would consider is looking at this thing and saying the ordinance says these are rear property lines that we could look at and say as a matter of practicality, in a matter of fact, they are effectively side yards because they abut to adjacent side yards. He said the properties abutting those lines are side yards and therefore even though the definitions technically say it we are going to grant a variance because it is an appropriate situation, it is a practical difficulty, to do substantial justice as his interpretation of the application of the zoning ordinance in this particular case, to be reasonable in the allowance of, it is a restriction on his property. He said we had to look at it and in this case this was a reasonable restriction and is this really within the intent of what the zoning was trying to accomplish and frankly, in his view, probably not so that for him is the lesser issue, the bigger issue is the size of the building and we've got the building that is already there. He said how is it affecting things, it is not the biggest building in the neighborhood, there are other buildings that are bigger, there are some of similar size. He said the way it is oriented is probably favorable from the standpoint that the narrow side is facing where people are looking at it. He said if this building was up next to your house, we get the opposite problem most of the time, the building is close to the house, right and the neighbor is looking right at the side of the building so if there is a big building there and I go out on my back patio and look out and see my 18' high building but it's not here, it is like 200' over there, not 25'.

Mr. Roark said but from his primary angle, he is not trying to be difficult.

Mr. Lamanna said we look at the facts and the facts are this is how far it is and we obviously want to reasonably protect your interests as well.

Mr. Roark said his house is 1,900 sq. ft.

Mr. Lamanna said it doesn't affect your house, the size of his outbuilding is not affecting the size of your house, the enjoyment of your house.

Ms. Gamble said she was just asking, your concern with the size of your house versus the size of his building, is it because you think that his building is bigger.

Mr. Roark said it is bigger and from me in my real estate classes that it definitely plays into the appraisal of the property or the value of the property.

Ms. Gamble said but the difference is only 1500 sq. ft. it is not bigger than your house.

Mr. Roark said no but it is taller and there is a nicer way we could have worked that out. He said when the door is open and he is doing woodworking and you get loud machines.

Mr. Lamanna referred to the displayed aerial and said that would be an issue if the building was here.

Mr. Roark said if they would have added privacy and personally he would have been for that.

Mr. Soryal said how about the noise factor you were just saying.

Mr. Roark said the doors are angled to go away.

Mr. Soryal said but there are windows.

Mr. Roark said he is not trying to make problems.

Mr. Soryal said no, understood.

Mr. Roark said there was no due consideration given whatsoever.

Mr. Soryal said what Mr. Averill was saying earlier, he can come to the township and apply for a building and put it in 20' away from his line but he is 30 to 35 feet even without coming in front of this board.

Mr. Roark said he understands.

Ms. Gamble said to your point in terms of saying he could have done this a nicer way and think we kind of already talked about it in the beginning that it was a mishap with him not knowing that zoning and the building department was something different so to his defense, if she can, he did enough so the zoning resolutions and those things.

Mr. Lamanna said the board hears a lot of cases where it is patently obvious that the person knew he should have gone to zoning and didn't go to zoning.

Mr. Roark said but the barn company.

Mr. Gutoskey said he thinks there is ample evidence here on the record that he did his due diligence.

Mr. Lamanna said we can't blame the barn company, we can't drag the barn company in here and they don't have any legal obligation to anybody, they weren't getting the permits so if they happen to notice this, but they are not thinking about it because they are not getting the permits, so if somebody is looking at it that is not the first thing in the front of his head, oh he has to look at this thing and see if there are any other permits that are required. He said unless it is something that jumps into the head and say oh you don't have an electrical permit here, that is more obvious with what they are doing. He said zoning and setbacks, not so much. He said so you are good to put the trees in.

Mr. Sutton said sure.

Mr. DeWater said ten feet apart so he could add 5 or 6 trees down the one side, try to stagger them and wrap around the front with another four or five trees and try to get at least a six foot height minimum. He said he has found out, he just purchased Norway Spruces today at 6 feet at \$200.00 a piece and it was at Chagrin Valley Nursery.

Mr. Lamanna asked what the total is.

Mr. DeWater said probably ten or eleven trees total for that side of the building. He said and you (Mr. Sutton) said you were going to stagger some other places around your yard.

Mr. Gutoskey said basically up the side and around the front.

Mr. Lamanna said 12 trees, stagger them.

Mr. DeWater said 11 or 12.

Mr. Lamanna said let's say 12 trees.

Mr. DeWater said about 10' apart and if you are hiring a landscaper he will know the spread between them.

Mr. Lamanna said so basically a staggered row of 12 trees.

Mr. DeWater said he would try to use some type of Norway or something that is going to be thick.

Mr. Lamanna said they are a little hardier than Blue Spruces, they get some issues.

Mr. DeWater said they get a lot of fungus.

Mr. Sutton asked if he should provide the invoice to this board, a photo.

Mr. Lamanna said work with the zoning inspector and we will ask that you put together a plan and submit it to him for his approval on the tree placement before you do it that way we won't have any issues.

Mr. Sutton said okay and he doesn't want to get into any more trouble.

Mr. Lamanna said within 30 days or something.

Mr. Averill said we will do it before we issue the permit.

Mr. Lamanna said so you understand we are not going to be doing any storage of equipment and things like that under the overhang and so they understand that no storing or using it by putting equipment and trailers or anything on that side of the building.

Mr. Sutton said they are actually still trying to swap that lumber or the post out and put it on the side, it is just that is the side they finished first.

Mr. Lamanna said if you could do that it would be really very helpful. He said if they can do that for a reasonable cost, he doesn't think you want to inflict a huge cost when you do that but if you can get it done for something that is reasonable, maybe they will cut you a break given the circumstances or you can go and tell them they really want him to move this to the other side. He said obviously it is more useful to you to have it on the other side.

Mr. Sutton said he would agree.

Mr. Soryal said it is just a few posts, everything else would be new.

Mr. Lamanna said if you could do that that would go a long way towards helping your neighbor out. He said that and you understand that you can't use this building for any kind of either business or living space. He asked if there will be any exterior lighting, planning on any exterior lighting.

Mr. Sutton said probably eventually but it has not been contemplated yet, probably one light over the door, that might be something maybe in the future but we are not even pouring concrete or running power for awhile.

Mr. Lamanna said obviously we don't want any lighting that is going to shine onto the neighbor's property, people don't think about that.

Mr. Gutoskey asked if there are gutters and downspouts.

Mr. Sutton said yes.

Mr. Gutoskey said and that will be directed towards the back where actually the gradient of the ground is, the ravine in the back.

Mr. Sutton said they will be 6" gutters, we still have to trench to get back to that but they will drain into the ground into some kind of a pipe and tie in.

Mr. Lamanna said that solves any issues with water and we are going to have a dark colored door and the trees.

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

Motion BZA 2024-25 – 19140 Elizabeth Lane

Mr. Lamanna moved to grant the applicant the following variances for the purpose of constructing a 1,517 sq. ft. accessory building.

1. A variance with respect to the minimum rear yard setback from 50' to 42.5' for a variance of 7.5'.
2. A variance from the north side and on the west side from 50' to 30' for a variance of 20'.
3. A variance to allow a 1,517 sq. ft. building from the permitted 896 sq. ft. for a variance of 621 sq. ft.
4. With respect to these variances the building being constructed is in accordance with the plans that have been submitted.
5. In addition, the applicant has confirmed and agreed that there will be gutters and downspouts and drainage to the ravine.
6. The garage door will be a dark color consistent with the coloring of the siding on the building.
7. The applicant has also agreed that there will be no storage of vehicles, equipment, trailers and the like on the side of the building facing the neighbor's property, the west side.
8. The applicant will plant at least 12 evergreens along the side and parking around the front to provide screening in two staggered rows, six foot in height. The applicant will submit a plan showing that to the zoning inspector for approval.
9. The board also notes that no business can be conducted in this structure unless it is otherwise approved in accordance with the Township Zoning Ordinance and the structure will not be used for living space under any circumstances.
10. The applicants have agreed to these conditions of the variance from the standpoint that they are being considered by the board and are necessary for the board to have granted the variances herein and otherwise without those adjustments the board would not be finding in favor of these variances.

Based on the following findings of fact.

1. The basis for the first variance is that this is a corner lot and by definition these would be considered rear lot lines but in fact from a practical standpoint these are abutting side lot lines of the neighboring properties where the setback requirement is only 20' so this provides an even greater setback than would normally be required and reasonable to consider these things other than effectively side yard lot lines which is a practical difficulty upon the owner of the property.

Motion BZA 2024-25 – 19140 Elizabeth Lane - Continued

2. With respect to the second variance on building size the board would note that this is a 1.91 acre lot, if the lot was 2 acres the ordinance would permit a 1,280 sq. ft. building. The actual building that is already partially under construction is only slightly in excess of that amount and so therefore it would be not unreasonably larger than would be permitted and would not adversely affect the character of the neighborhood and there are similar other accessory structures that are in the neighborhood.
3. The adverse impact on the neighbors has been ameliorated by the conditions with respect to screening and other matters.
4. The board also notes that making the building smaller would probably result in it being made shorter which would not change the impact of the view of the building that is generally presented to the adjacent properties.
5. This is a 1.91 acre lot. The amount of permitted size on two acres is 1,280 sq. ft., the increase over that is insubstantial and inconsequential and would not adversely affect the character of the neighborhood or the neighboring properties.
6. The conditions that the board has applied with respect to the screening, gutters and downspouts, the dark colored door and no storage of vehicles all create a situation where there will not be a substantial adverse impact on the adjacent property owner nor change the character of the neighborhood.
7. The board also finds that there are a number of at least five or six large accessory buildings in the area, some of which are larger or the equivalent size of this building.
8. The board also finds the front presentation of the building is such that it would be approximately similar even if the building was a smaller total footprint as it would decrease the length of the building and would not change the front presentation to the neighboring properties.
9. With respect to the first two variances, the board finds that these are so-called rear yards that abut side yards of each of the two other properties and therefore under these circumstances should be considered side yards and that it would be unreasonable and a practical difficulty to impose the greater requirement on the property owner and again the board finds that because they are side yards, in reality, they will not adversely change the character of the neighborhood or adversely impact the neighboring property owners.
10. The board notes that this building is at least 200' from the closest neighboring house.

11. The board has carefully examined the evidence that was presented by the applicant with respect to whether or not he intentionally failed to get the zoning permit, we have looked at the evidence as presented in terms of his conduct in seeking building permits, talking to various people and the county offices and also his unfamiliarity with the local requirements and his prior experience in being able to get approvals in a single location as is possible in municipalities that the actions of the applicant were mainly inadvertent and therefore the board has considered that that should be taken into consideration in terms of our consideration in granting these variances.
12. The board feels that he acted in good faith in his obtaining these approvals and deciding on the location and size of the building.
13. The board will also note for the record that the applicant will attempt to see if he can have the porch part switched over to the other side if that is feasible by the contractor but the board is not absolutely requiring it, but he is committed to us to see if he can get that done.
14. The building is oriented on his property parallel to the north line.

Mr. Gutoskey seconded the motion.

Vote: Mr. DeWater, aye; Ms. Gamble, aye; Mr. Gutoskey, aye; Mr. Lamanna, aye; Mr. Soryal, aye.

Application 2024-26 by Janet and Thomas Vokas for property at 17477 Trillium 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. Gutoskey recused himself from this application.

Mr. Thomas Vokas was present to represent this application.

Mr. Lamanna noted for the record that Mr. Vokas was previously duly sworn.

Mr. Thomas Vokas testified that somehow Rt. 306 just keeps getting closer and closer to his house, or at least it appears that way.

The board held a discussion on the increase in traffic noise in the township.

Mr. Vokas said this fence isn't for noise but it will help with some of the noise. He said the purpose of the fence is just for when he walks out of his house he is not looking at traffic going by. He said this section of his property, through the course of the salt going down on the road along Rt. 306 and some of the trees they were growing, a lot of the vines are growing up so some of the trees he had to taken down because they were just dead, there was just dead wood there and it is thinned out to a point where always in the winter he would have a clear shot of Rt. 306 but now even throughout the summer, it is getting more and more sparce so just for his own sense of privacy and hopefully putting a little bit of a barrier between when he walks out of his house or out of his garage he has a little space a little break there. He said he measured and the fence is 8', it is going to be very similar, just for a point of reference, to the fence that is on the corner of West Craig and Rt. 306 and it is going to be built as a stockade and it is going to be built by the same person, that is a very well built fence and he has already got him lined up. He said he is not going to do anything until the leaves come down so they can get a better line and they can see because the foliage is a little rough right now and he measured 5' off of the right-of-way of Rt. 306 and he is going to be 5' off the back. He said there was a small decorative fence, you can still see it on a couple of these photos and there was some Arborvitaes that were put in there but he thinks the salt from the salt trucks tore them up and it killed them.

Mr. Lamanna said Arborvitaes do not like salt.

Mr. Vokas said it looked really nice, the landscaping along the entrance of the subdivision was nice but it kind of just got burned out.

Mr. Lamanna asked how far he is proposing to come down and bend around here.

Mr. Vokas said he would like to bend it up a little bit on the front similar to what he did on West Craig, he brought that along but he realizes that is a different situation, the state owned some of the land between his property line and the road so he is working off of the right-of-way and he was going to try to get up closer to the right-of-way but after he walked the property it is fine 5' off of the right-of-way and he will have enough room to blow his leaves in that corner up there.

Mr. Lamanna asked if Trillium is a 60' right-of-way.

Mr. Vokas said yes.

Mr. Lamanna said you are staying 5' away from the edge of that right-of-way also because that is going to be 10' on your property, probably back about 15' from the pavement edge.

Mr. Vokas said probably more than that, it is going to be pretty far back. He said Trillium Drive, the centerline of that is more toward the north, so that right-of-way encroaches onto his property a lot more than it does on the property on the southern border.

Mr. Lamanna said so it is going to be fine, if a car gets up there they can be able to see.

Mr. Vokas said they are going to see, yes. He said if anything it is some of the shrubbery out front that is making it a little more difficult than his fence line.

Mr. Lamanna said he is on the better side of the road, you always want to be on the opposite side because then if it's the guy on this side when you come up and he's got a fence coming down like this because you've got the angle looking up the road that way.

Mr. Vokas said depending on where this tree line is its going to be up. He referred to the displayed aerial photo and said he is coming back in here and he was thinking about bringing it back here. He said he can't put it here because he has some pretty good Maple trees right here.

Mr. Lamanna said do the same thing there, keep that 5' off the Trillium right-of-way as well.

Mr. Vokas said yes, he is going to be back in here and you could see these trees right here, he really can't, just maybe just about a section like this.

Mr. DeWater asked if Trillium has a homeowner's association.

Mr. Vokas said no.

Mr. DeWater said he just wanted to make sure because we had somebody else bring a letter from the neighbors when they put a shed in the backyard.

Mr. Vokas said it is not registered, he knows we are not, we are not a legit, it is kind of a volunteer HOA of people.

Mr. DeWater said okay, just wanted to make sure.

Mr. Vokas said the only other point he would make is his neighbor who lives behind him, he has a stockade fence too, to that point, this is his fence line right here, you can see it, it comes along, and he measured and it is almost 10' but it was put there prior to him purchasing that property and there was a big tree that came down through here and it busted up his fence here but technically his fence is on his property, that is part of the 200'. He said he doesn't need to be 6", he has enough room to move that fence in and make it work.

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

Motion BZA 2024-26 – 17477 Trillium Drive

Mr. Lamanna moved to grant the applicant the following variance with respect to installing an 8' fence along the side of his property that abuts Rt. 306 and then turns onto Trillium Drive and with respect to that part of the fence that is in front of the dwelling.

1. A variance to permit an 8' tall fence instead of a 4' tall fence and this includes the part along from the front of his house up to 5' from the right of way of Trillium Drive and then an additional section of 40' along Trillium Drive also to be located at least 5' from the right-of-way of Trillium Drive and the part along Rt. 306 will be located also at least 5' from the right of way of Rt. 306 so in those front yard areas the board is permitting an 8' fence.

Based on the following findings of fact.

1. The applicant is along a major highway with lots of noise and traffic and therefore it is reasonable to allow this to be a higher fence since it is not dividing from another residential property.
2. With the location of this fence it will not obstruct the view for cars leaving Trillium Drive going onto Rt. 306 so it will not adversely affect the character of the neighborhood nor adversely affect any of the adjacent property owners since there are no adjacent property owners along the area where this fence is being placed.

Mr. DeWater seconded the motion.

Vote: Mr. DeWater, aye; Ms. Gamble, aye; Mr. Lamanna, aye; Mr. Soryal, aye.

Mr. Gutoskey returned to the meeting.

Since there was no further testimony, the public hearing was closed at 9:10 P.M.

Respectfully submitted,

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

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

Date: October 17, 2024

AUDIO RECORDING ON FILE

Bainbridge Township, Ohio  
Board of Zoning Appeals  
September 19, 2024

The regular meeting of the Bainbridge Township Board of Zoning Appeals was called to order at 9:10 P.M. by Mr. Michael Lamanna, Chair. Members present were Mr. Ted DeWater; Ms. Devon Gamble, Alternate; Mr. Joseph Gutoskey and Mr. Emeil Soryal. Mr. Todd Lewis was absent. Mr. Steven Averill, Zoning Inspector was present.

MINUTES

Mr. Lamanna moved to adopt the minutes of the August 15, 2024 meeting as written.

Mr. Gutoskey seconded the motion.

Vote: Mr. DeWater, aye; Ms. Gamble, aye; Mr. Gutoskey, aye; Mr. Lamanna, aye; Mr. Soryal, aye.

APPLICATIONS FOR NEXT MONTH

Application 2024-27 by Walter Zimmer for property at 16510 Snyder Road

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

Application 2024-28 by Joseph C. Oberle for property at 8197 Tulip Lane

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

Application 2024-29 by Riser Foods Company for property at 17675 Chillicothe Road - (GetGo Gas Station)

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

Application 2024-30 by Partnerless Productions Ltd. for property at 8200 Washington Street

The applicant is requesting a new conditional use permit for the purpose of an Outdoor Dining area. The property is located in a CB District.

Since there was no further business, the meeting was adjourned at 9:20 P.M.

Respectfully submitted,

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

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

Date: October 17, 2024