

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

Pursuant to notice by publication and ordinary mail, the public hearing was called to order at 7:15 P.M. by Mr. Michael Lamanna, Chair. Members present were Ms. Devon Gamble, Alternate; Mr. Joseph Gutoskey and Mr. Todd Lewis. Mr. Ted DeWater and Mr. Emeil Soryal were 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.

Ms. Devon Gamble, Alternate joined the board for consideration of the following application due to the absence of Mr. DeWater and Mr. Soryal.

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

Application 2024-32 by Daniel Hoch for property at 18066 Haskins 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. Daniel Hoch and Mrs. Lori Hoch were present to represent this application.

Mr. Lamanna swore in Mr. Daniel Hoch and Mrs. Lori Hoch and he let the record reflect that Mr. and Mrs. Hoch were duly sworn.

Mr. Daniel Hoch testified that they are applying for a variance because they are looking to put a shed in for the house and the way their layout is their yard slopes and they have a riparian behind them that is wet and they want to put it to the right side of the house but closer to the border than what is currently allowed so that is the big reason they are here today.

Mr. Lamanna asked if they got approval from the Homeowner's Association, are they okay with the 6.5'.

Mr. Hoch said they signed off on it and their neighbors signed off on it.

Mr. Lamanna said there is one issue he knows that came in and that is an easement that exists along that side of that property.

Mr. Gutoskey said yes, in the Pilgrim Village Subdivision Phase II plat on the second page it says "10' easements are hereby granted on all front, rear and side lot lines for all public and private utilities, sanitary sewer, water mains and storm sewer facilities, installation repair, operation, maintenance and replacement."

Mr. Steven Averill, Zoning Inspector testified that it is 10' in the front, side and rear and in your case it is rear because there is a drainage easement back there.

Mr. Gutoskey said he thinks there is a rear drainage easement already.

Mr. Lamanna said the situation is that the requirement for, this is what we call an area variance, because it is a specific number related to the location on the property of buildings and that sort of thing. He said the standard for an area variance is generally that one has to demonstrate what is called a practical difficulty and in these cases what it is is there is something about your property that makes it difficult to satisfy the 20' setback requirements.

Mr. Hoch said yes.

Mr. Lamanna said like there is a steep gradient, there is obviously, you have a riparian going through, that certainly limits where you can put it. He asked what is in the area behind the end of your driveway there.

Mr. Hoch said over here is a water route, there is a water well back here, that is a big issue.

Mr. Lamanna said no septic though.

Mr. Gutoskey said they are on sanitary sewer.

Mr. Hoch said they have sewers.

The board reviewed the displayed aerial of the property.

Mr. Hoch said the most logical area to put it is that right side.

Mr. Lamanna said he thinks it is really just a question of how far away from the property line. He said in this case you've got a 10' boundary there anyway because we are not going to allow you to put it in the easement so then it is just a question of what makes the most sense.

Mr. Gutoskey asked where is the well relevant to where the shed is going to be because he thinks you have to be 10' off the well with a building.

Mr. Lewis said he believes that your HOA architectural people are in error in approving intrusion of a structure into that 10' plat requirement.

Mr. Lamanna said they may not realize it.

Mr. Lewis said whatever it is whether it was intentional or not they are in error so it is kind of like it's a no fly zone so he thinks what we should be talking about is where else to consider positioning it.

Mr. Lamanna said it looks like you wanted to put this so it would be abutting up the back side of your driveway there.

Mr. Hoch said yes.

Mr. Lamanna said so now that becomes not possible because you don't have enough room.

Mrs. Lori Hoch testified that the other side of that line, technically where the line is, is not correct.

Mr. Lamanna said no you can't trust these lines, they are plus or minus.

Mrs. Hoch said it would be between where the driveway is and those trees all the way at the top, between the driveway and the trees so it would give some privacy towards the neighbor, it would actually look better from the street facing this way rather than facing this way.

Mr. Hoch said that line is actually more, see where the trees are there, we have a 2017 survey.

Mr. Gutoskey asked Mr. Averill to draw a line from the garage straight out.

The board discussed the distance from the garage to the property line.

Mr. Lamanna said it is pretty clear here that there is not enough room for the 12' building because the maximum you have is 6-1/2' so if you go 10' away the building is going to have to move back.

Mr. Lewis said he is going to have to move it back and the application stated that the applicant was storing things that normally would be in the garage, lawn mower, just property maintenance stuff, kids bikes, any of that kind of stuff so it is not like the driveway has to be touching it because you are putting a vehicle in it and storing cars or boats.

Mr. Hoch said yes.

Mr. Gutoskey said plus he could go closer to the garage because he would still be 10' away.

Mr. Lewis said our code is 20'.

Mr. Lamanna said he would have to move it to the back of the driveway and shift it over anyway so right and the driveway looks like it is 18-1/2' so you are going to be overlapping 5' already at the end of that driveway.

Mr. Gutoskey said that turnaround pad is probably about 30'.

Mr. Lamanna said we are going off the survey.

Mr. Gutoskey asked if the drive is concrete.

Mrs. Hoch said it is concrete.

Mr. Lamanna said the survey says you can't get it between the edge of the driveway and 10' from the property line, it won't fit.

Mr. Gutoskey said usually the turnaround pad is 28' to 30' off the garage and this is gravel, right.

Mr. Hoch said no it is asphalt.

Mr. Lewis said well even to give a 10' variance which is pretty substantial because the code is 20'.

Mr. Lamanna replied yes.

Mr. Lewis said we still have to talk about determining some degree of practical difficulty over just preference and because the riparian is quite away into the middle of the backyard.

Mr. Lamanna said he could see lining it up with the driveway side that runs parallel to that, it is 18-1/2' so you are at 1-1/2' there. He said you have to move the building back anyway.

Mr. Lewis said absolutely.

Mr. Lamanna said when you get to that point moving it a few more feet so it lines up with the edge of the driveway really doesn't make that much difference.

Mr. Lewis said you are right, 18-1/2'.

Mr. Lamanna said there is a distance to the next property right there, it is more than the normal spacing.

Mr. Gutoskey said you can't really go to the property line because we know the property line is not quite right.

Mr. Lamanna said we have to move this up and over because there is just not enough room in here because to go to 10' then this thing is going to be on top of the cement so you are going to have to move it back there anyway and at that point in time you might as well line it up with the edge of your driveway, that is only a few more feet over.

Mrs. Hoch said right past the driveway going this way, there is small flat area that her kids can play in and everything else is kind of sloped down so it would be hard to have a flat area for the shed especially if it is going back 20'.

Mr. Lamanna said you are only going back less than half.

Mrs. Hoch referred to the displayed arial and said you are saying put it this way but this starts sloping, it is probably flat like this section here but that is about it so they want to put a swing set in, that is where her kids play, they live on a busy street so they don't play in the front.

Mr. Gutoskey referred to a structure and asked if it is a trampoline right here.

Mrs. Hoch replied yes, that is the other flat side of her yard.

Mr. Gutoskey said he was just thinking about the riparian.

Mrs. Hoch said it is removable.

Mr. Lamanna asked if those are 2' contours.

Mr. Gutoskey said yes.

Mrs. Hoch said the reason that the trampoline is down there is because there is nowhere else to put it.

Mr. Hoch said that 10' distance is the law right.

Mr. Lamanna said yes, you can't be building in an easement.

Mr. Hoch asked no matter what.

Mr. Lamanna said no, it is reserved so you are kind of forced to move it behind the driveway and at that point in time he thinks that the way to make this fit in right is to have it lined up with the driveway then there is a reason to put it there, that is already there so we start at that point. He said he thinks once you have to move it back there and just look at the topography you are probably better off a little bit more away from the property line there from the way the contours are starting to go, it looks like you have a little bit of an elevation change but not a huge amount there.

Mr. Gutoskey asked how far that pad is off the garage, it is more than what they are showing on here.

Mr. Lamanna said it is 40'.

Mr. Gutoskey said it is 40' if that is what they measured but this drawing isn't to scale.

Mr. Lamanna said okay, it is not to scale but the fact is the distance from the side pad to the property line is still only 18-1/2' so that only leaves you 8-1/2' there to put a 12' building in so the only thing you can do is move the building back.

Mr. Steven Averill, Zoning Inspector said that is the original driveway there.

Mr. Gutoskey said this is an older aerial.

Mr. Lamanna said so they have made the driveway bigger.

Mr. Gutoskey said yes, the driveway is bigger.

Mr. Lamanna said he doesn't think you want to be removing part of your driveway.

Mr. Hoch said no.

Mr. Lamanna said that would seem to make less sense than just moving the building back so the corners line up there and it continues back from there.

Mr. Hoch said basically he was suggesting having it along this stretch, starting here and going here (he referred to the displayed aerial).

Mr. Lamanna said so it lines up nicely with the driveway and when you look at it it kind of looks like it goes together.

Mr. Lewis said like it belongs.

Mr. Hoch said yes.

Mr. Lamanna said they would need a front and back variance for that.

Ms. Gamble asked if this is being purchased or being built on the site.

Mr. Hoch said it is being built.

Ms. Gamble asked if they could rotate it, instead of going 12' deep.

Mrs. Hoch said she thinks that would be more of an eyesore.

Mr. Lamanna said if you turn it the other way the trouble is when you look from the street you are going to see it. He said literally your neighbor is going to see some of that but he is farther away and his woods is in between. He said the board could give you 18' off so it will give some wiggle room.

Mr. Hoch asked if it could be 10' off.

Mr. Lamanna said there is really no justification for 10'.

Mr. Hoch said they need more area for their kids to play.

Mrs. Hoch said it is the only place for them to play.

Mr. Lewis said so you might have to make a choice, you want the shed or you want the playground, if there is not space for both.

Mrs. Hoch said who says the next buyer, we move out and they want to put a swing set for their kids right there so we are kind of making the decision for the next buyer.

Mr. Hoch asked what the big issue is of being 10' off.

Mr. Lewis said it is a substantial variance.

Mr. Lamanna said remember we are already starting from the standpoint that normally it used to require 50' off but what we have done is we have gone back to what some of the original side setbacks were which were pretty close, when the subdivisions were originally platted, so we are already starting with a fairly small side yard setback, 20' is fairly small, so what happens is our wiggle room is smaller. He said if you are on a property that had a 50' setback requirement and somebody said they would like to do 40', the board could do 40' and that is only 10' out of 50', 20% and there is still 40' there whereas when you've got 20' and you take 10' away now it is only 10' and that is really close, we are talking Lake Lucerne close where things are built on much smaller lots so again we have a standard we have to apply, we have a legal standard that we try to apply and we try to apply it consistently because we don't want to be giving this guy this, and somebody else comes in and wants to do something like that and now what, we are going to tell them no and they say you let them do it here so we have to have something to point to to say this is why we made this decision, this is what we saw as the practical difficulty. He said a lot of times we run into occasions when people have real drop offs or if they have a septic system there and you can't build on top of a septic system so we can be more flexible in those cases because the standard is met and we have something we can point to and we can have a consistent application. He said the board has to consider how this plays out across the entire township, we have to have a consistent method.

Mr. Hoch said they don't have riparians in the backyard and they don't have the same things we've got going on though.

Mr. Gutoskey asked if the riparian wasn't there would you put your shed back there.

Mrs. Hoch said yes but it is flat where the water just comes through and the trampoline definitely gets a lot of rain, and we get a lot of rain so there is a little bit of a creek but if we didn't have that water issue, it is flatter back where the woods are in the backyard, she would definitely put a shed back there.

Mr. Gutoskey asked but how would you get your snowplow out.

Mr. Lewis said you can shift it backwards and forward, we are just saying that you are going to have to hold it at 18' off the property line.

Mrs. Hoch said yes.

Mr. Lewis said and even that is already a variance, to go 10' off that is a very substantial variance, that would be a 50% variance with no real practical difficulty other than your preference because where the BZA is suggesting, the structure could be located, that is a buildable area, there is no conflict, we have seen where your wellhead is, there are no conflicts with your septic or your reserve alternate leach fields.

Mr. Gutoskey said because they have a sanitary sewer.

Mr. Lewis said that is even better, you don't even have septic tanks.

Mrs. Hoch said where that blue line is where you are claiming the property line is, you are saying from there.

Mr. Gutoskey said line up the shed with the edge of the drive and then come towards the house.

Mrs. Hoch said that would be like the edge.

Mr. Gutoskey said if you want to make it a little wider and not as deep that is up to you.

Mr. Hoch said yes.

Mr. Gutoskey said yes, something like that, very good.

Mr. Lewis said just move the box from there to there.

Mr. Hoch said yes.

Mr. Lamanna asked if there are any other issues the board needs to address.

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

Motion BZA 2024-32 – 18066 Haskins Road

Mr. Lamanna moved to grant the applicant the following variance for the purpose of constructing an accessory building.

1. A variance on the north side of the applicant's property for the construction of a building that has been proposed in the application from the required 20' to 18' for a variance of 2'.

Based on the following findings of fact.

1. There is a practical difficulty because there is an easement which forces it to be 10' off the property line.
2. This is a small variance and this will allow the shed to line up with the existing north edge of the driveway and still maintain a similar setback as that driveway so it will be less noticeable and therefore will not adversely affect the neighboring property or be inconsistent with the character of the neighborhood.

Mr. Gutoskey seconded the motion.

Vote: Ms. Gamble, aye; Mr. Gutoskey, aye; Mr. Lamanna, aye; Mr. Lewis, aye.

Since there was no further testimony, the public hearing was closed at 7:44 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: January 16, 2025

AUDIO RECORDING ON FILE

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

The regular meeting of the Bainbridge Township Board of Zoning Appeals was called to order at 7:44 P.M. by Mr. Michael Lamanna, Chair. Members present were Ms. Devon Gamble, Alternate; Mr. Joseph Gutoskey and Mr. Todd Lewis. Mr. Ted DeWater and Mr. Emeil Soryal were absent. Mr. Steven Averill, Zoning Inspector was present.

MINUTES

Mr. Gutoskey moved to adopt the minutes of the November 21, 2024 meeting as written.

Ms. Gamble seconded the motion.

Vote: Ms. Gamble, aye; Mr. Gutoskey, aye; Mr. Lamanna, aye; Mr. Lewis, aye

APPLICATIONS FOR NEXT MONTH

Application 2025-1 by Bill Joyce for property at 16421 Franklin Street

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

Application 2025-2 by Adam Cox for property at 7360 Brighton Court

The applicant is requesting area variance(s) for the purpose of constructing a pool facility that includes pool equipment, fire pit, pavilion and an in-ground pool/patio. The property is located in a R-5A District.

Since there was no further business, the meeting was adjourned at 7:47 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: January 16, 2025