

Bainbridge Township, Ohio
Board of Zoning Appeals
March 21, 2019

Pursuant to notice by publication and ordinary mail, the public hearing was called to order at 7:00 P.M. by Mr. Todd Lewis, Vice Chairman. Members present Mr. Ted DeWater; Mr. Joseph Gutoskey and Mr. Mark Murphy. Mr. Michael Lamanna was absent. Ms. Karen Endres, Zoning Inspector and Mr. David Dietrich, Assistant Zoning Inspector/Planning and Zoning Coordinator were present.

Mr. Lewis welcomed everyone to the regular meeting of the Bainbridge Township Board of Zoning Appeals, explained the public hearing process and swore in all those who intended to testify. He let the record reflect that everyone had been duly sworn in.

Application 2018-50 by Luigi (Gino) Oppedisano for property at 8575 Washington Street
- Continuance

The applicants are requesting a review, renewal and expansion of an existing conditional use permit to include an existing patio. The property is located in a R-3A District.

Mr. Gino Oppedisano, owner and Mr. Steve Ciciretto, architect were present to represent this application.

Mr. Lewis stated that the board will speak to the first component on where we stand with the original property, there were some things that needed to be taken care of and that was all tied to the renewal of the existing conditional use, we will get to the expansion elements later.

Mr. Ciciretto testified that all of the items have been addressed to some degree at this point that they have been discussing. He said it started with the dumpster location that was close to the neighbor and Ms. Endres also has some pictures up on the board. He submitted photos to the board and said that is looking to the southeast corner where the dumpster was and as you can see it has been removed and it has been placed center lot so it has been repositioned, as you come up the drive so in terms of getting it away from the residential neighbor on the east or west side, it is farther to the center of the lot that trucks can actually move. He said they come in the entrance drive and they can approach it and that is where it ended up, it is screened and rebuilt but the point is that the neighbor to the east, that item has been addressed and relocated to get it away from them. He said there was some trash that was in the woods to the south for some time and that has all been cleaned up so the yard is clean and immaculate. He said there was a walk-in cooler in the northwest corner of the lot and you can see from this photo that the metal cooler has been removed and taken off site so the site conditions regarding some of the issues with the trash and the dumpster and the cooler, that has all been addressed. He said there was a question about the lights facing the eastern residential property that lit the drive, basically there were some flood lights up there and those have been replaced with new small lights that can barely cover the driveway but still offer some security but actually have the ability to be on a motion sensor so generally during working hours they keep those on but they never really run all night so we have

always switched them off but the lights have been replaced so they don't flood into the eastern neighbor's yards.

Mr. Lewis said so those are automatic so at night if somebody comes down the driveway they will flip on.

Mr. Oppedisano testified that they turn them on and off but if the best way is to have them on a sensor he will have the electrician do it.

Mr. Lewis said if there are deer going down the driveway in the middle of the night all of a sudden the lights will go on.

Mr. Ciciretto said he normally just shuts them off at the end of the night.

Mr. Lewis said he likes that a lot.

Mr. Oppedisano asked which one is better.

Mr. Murphy said he has no need for the lights to come on after you are closed, nobody is looking at the parking lot, it doesn't help law enforcement or anybody else, when the business is closed, shut the lights off and added that he is a big fan of that.

Mr. Ciciretto said they agree and he thinks at those hours it is not like they would need them for security reasons; they have not had an issue.

Mr. Murphy asked Mr. Ciciretto where the new dumpster location is.

Mr. Ciciretto referred to the site plan and said the dumpster is actually right here. He said you don't actually see it as you are heading in but it is there and there was a walk-in cooler here that has been removed so that has been taken care of. He said they are in the process of consolidating, the lots have been surveyed and all of the encroachments have been verified, there are no real encroachments and he thinks there is a corner of an existing concrete lot that is right on the line in the back that Ms. Endres is addressing but there is nothing that encroaches on the neighbor's property. He said it has been like that historically.

Mr. Lewis asked if the lot joining is complete.

Mr. Ciciretto said it is not because they can't consolidate it until the variances are granted and this board processes their approval and when they do it is ready to be filed and maybe Mr. Dave Dietrich can help us get through that process, he knows it well but the consolidation and the legal description and the initial filing has been made on that.

Mr. Ciciretto continued by saying the building permits can't actually be pulled until they are authorized to have a zoning permit but at this point the plans have been reviewed and Geauga County has issued an adjudication order with a couple of minor items, lighting, and to make sure it is UL rated etc. which they are that we just have to address but as soon as the permit is issued then they can issue the building permit so it is a permit-able structure at this point.

Mr. Lewis said which is your second application, BZA 2018-50 is for the CUP renewal and BZA 2018-51 is the addition.

Mr. Ciciretto said the renewal of the existing conditional use, that addresses the items.

Mr. Lewis said there were five criteria, the lot joining, the dumpster had to be moved, the cooler was removed from the site, the trash was all removed and the outdoor premises lighting has been replaced.

Mr. Ciciretto said yes.

Mr. Lewis said and those all followed the original structure, the original building.

Mr. Ciciretto said yes, that was still all part of the first application.

Mr. Murphy asked if there is anybody else here interested in this application.

Mr. Lewis asked if there are any comments from the board.

Mr. Murphy said the building permit you are talking about that is tied to this zoning approval; the building permit is not about this one.

Mr. Lewis said that is application 2018-51, that is the addition.

Mr. Ciciretto said all five conditions have been met.

Ms. Karen Endres, Zoning Inspector testified that there are flood lights on the rear property that are not full cut-off fixtures.

Mr. Lewis asked if they still exist.

Ms. Endres said yes, they are in the pictures; take a look at the pictures.

The board viewed the photos.

Mr. Ciciretto said those are the new ones, she is talking about this one.

Ms. Endres referred to the photo and said there is a floodlight here and a floodlight there, they do not shine to the east, they point toward the rear parking lot but they are not full cut-offs.

Mr. Ciciretto said but they don't render a foot candle past the property line, they don't light past the property line, you visually see them just like you can see our ornamental posts here from a distance but they don't light beyond the parking areas.

Mr. Gutoskey said so they are adjusted.

Mr. Ciciretto said they angle down.

Ms. Endres said she wants to make sure that everything is on the record.

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

Motion BZA 2018-50 – 8575 Washington Street (Cucina Rustica Restaurant)

Mr. Lewis moved to grant the applicant a renewal of the conditional use permit for the purposes of operating a restaurant for a period of five years from the time the minutes are signed by the board.

Based on the following findings of fact:

1. The applicant has initiated the process of lot joining the two properties and at such time that it has been completed a copy of that transaction will be submitted to the Zoning Inspector so it is on file here.
2. This is a pre-existing business and the nature of the business has been consistent over the years for an extended period of time and there was already a conditional use permit in place.
3. The applicant has met the criteria of some housekeeping items on the property including the dumpster being moved, the cooler being removed from the site, the trash that was at the rear of the lot has all been removed and the applicant has changed out the lighting fixtures to cut-off lights so that there is no bleed and they are also programmable so that they could either be manually off or on or on automatic but in this case the board has agreed that they will be turned off when the restaurant is done with business for that evening so that they will not shine all night.

With the following conditions:

1. A new site plan will be submitted that will reflect the changes of the parking spaces where applicable and the relocation of the dumpster and will redraw that plat at that time.
2. The hours of operations for the outdoor patio structure will end Sunday through Thursday at 10:00 P.M. and on Fridays and Saturdays at 11:00 P.M.
3. The music will be modest outdoor music. The musician will be setting up so that they are facing west, southwest towards the commercial and not the residential properties and large live loud bands are not permitted.
4. Dumpster pick up will be scheduled to always occur after 7:00 A.M.
5. The patio structure lighting will be contained to under the roof of it for the purposes of illuminating seating and service for patrons, not for illuminating the parking lot.
6. In reviewing all of these conditions with the applicant, the applicant has agreed to meet all of these conditions.

With the following area variances:

1. A variance to the minimum front yard setback of 100' to 87' for a variance of 13'.
2. A variance to the minimum side yard setback (west) from 100' to 1' for a variance of 99'.
3. A variance to the minimum side yard setback (east) from 100' to 20' for a variance of 80'.
4. A variance from maximum lot coverage of 40% to 80.2% for a variance of 40.2% and that includes a future parking lot expansion area on the west side of the property to bring the parking lot and parking spaces up to code with sizes and accessibility.
5. The parking lot will remain as depicted on the site survey that the board has been provided with the exception of a slight expansion on the west rear lot size.
6. The board also notes that it realizes that these parking spots are slightly sub-standard in size within an average of 18' long as opposed to 20'.
7. These variances are being granted based on the existing size, shape and location of the building and these are not intended to allow for additional building expansion on all three of the setback areas defined, (front, east and west).
8. A variance is granted permitting this use, construction and layout based on a three acre requirement but this is a pre-existing non-conforming lot of record with a conditional use. The board is approving it at 1.5209 acres which is the combined acreage with the two lots being joined which is a variance of 1.4791 acres.
9. A variance from the required lot width of 200' to 129.1' for a variance of 70.9'.

Based on the following findings of fact:

1. This is a pre-existing non-conforming lot of record.
2. It is an existing structure.
3. The applicant has made every effort to conform including joining two lots together and meeting all of the board's requirements for parking and access.
4. There has been no change in the nature of their core business.

Mr. Gutoskey seconded the motion.

Vote: Mr. DeWater, aye; Mr. Gutoskey, aye; Mr. Lewis, aye; Mr. Murphy, aye.

Application 2018-51 by Luigi (Gino) Oppedisano for property at 8575 Washington Street
- Continuance

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

Mr. Gino Oppedisano, owner and Mr. Steve Ciciretto, architect were present to represent this application.

Mr. Lewis stated that the board will explore BZA application 2018-51 for Cucina Rustica at 8575 Washington Street for the purposes of putting an addition onto the building which is an outdoor patio with a covered roof and utilities.

Mr. Ciciretto testified that one of the questions that was discussed was is it a permit-able structure so we started talking about the process that we entered into with the Geauga County Building Department and they have issued an adjudication order with a few minor issues but pending that they would be in a position to offer us a building permit as if it were not built yet.

Mr. Lewis asked if they have a building permit.

Mr. Ciciretto said no they have an adjudication order from the building department. He said they can't issue the building permit until we get a zoning permit.

Mr. Lewis asked if architectural plans were submitted.

Mr. Ciciretto said yes he did submit them, he drew up for Mr. Oppedisano what was built, added some reinforcement and some things he thought needed to be done, issued that and they issued us an adjudication order.

Mr. Gutoskey said this is a letter from the building department saying based on their code review, what items on the plan, but normally you would get it before you build.

Mr. Ciciretto said yes exactly but this is kind of more about the documents than the building.

Mr. Lewis asked if Ms. Endres has a copy of that.

Mr. Ciciretto said she does not.

Mr. Gutoskey said if they review the plans and give them a letter stating what deficiencies are in the plans based on reviewing the code against the plans and they make those changes to the plans and then they get their permit.

Mr. Ciciretto said some of it is technical, he calls it a utilities building and the plan reviewer is calling it an assembly structure so we just have to call it an assembly building instead and he thinks there are some materials and distances that need to be met but it is all doable, it just has to be addressed on the drawings.

Mr. Gutoskey asked Ms. Endres if she looked at the seats in the building and what is on the patio that there is enough parking.

Mr. Ciciretto said they did.

Ms. Karen Endres, Zoning Inspector testified that she didn't think there was a parking issue.

Mr. Ciciretto said he believes the count was that they were required to have 65 spaces and they have 82 spaces. He said it shows a total of 85 spaces and per the calculations there are 45 spaces that are needed for the restaurant and the patio and there are an additional 40 spaces required for the banquet facility which isn't in use right now so that is a total of 85 seats so basically they are way over, they have more parking than they need.

Mr. Murphy said unless you open the banquet facility then you need the extra spaces and you have 40 and 45, that is enough but did that include the new patio.

Mr. Ciciretto said yes and the point of it is actually that very rarely or never is the patio filled and the restaurant, people come in the summer and they want to sit outside so when the patio is filled the restaurant is basically empty and it is just the nature of it and then of course in the winter when it closes down then the restaurant may become more filled but unfortunately we don't have a situation when the patio and the restaurant were ever filled. He said it appears as he reads the variances that most of them have to do with the issues predating the addition of the patio. He said the setbacks are already established on the east side and the west side.

Mr. Ciciretto continued by saying on the east side the building is actually closer than the patio is right now and the west side is in the same line but where the patio starts is where the lot widens out, the consolidated lot lines up with the east side of the building, the west side of the building is closer to the property line so all of the variances that they need up there, there was a lot of coverage before, it was totally paved so the addition didn't increase the lot coverage, all of the items predated the addition.

Mr. Lewis asked Ms. Endres, most of these were pre-existing variances, were they not.

Ms. Endres said she doesn't think there were ever variances granted, she couldn't find in the files where there were variances that were part of the conditional use.

Mr. Lewis said we can go through these as stated there and will make it a housekeeping effort all at one time.

Mr. DeWater said in the letter from Geauga County what were some of the deficiencies they pointed out.

Ms. Endres said she just got the letter. She said she can review this to make sure that everything is addressed.

Mr. Ciciretto said there were issues with verifying what they didn't actually call out, the exact model light fixture on this drawing verifying that they were UL approved fixtures so he has string lights that need to be verified. He said there is a housekeeping issue in how the building is determined, what the use of the building is is determined by the Ohio Building Code whether it is a utility use as a garden pergola element or is it an assembly use with a wall structure that confines the amount of egress that you can get so it is just kind of technical. He said it doesn't really matter to them how they want to rate it but it does have a little bit of impact on the construction techniques so they are asking can the roof support wind loads. He said unfortunately we just got our first test with that big windstorm that we had a few weeks ago, we didn't lose any roof or panels or anything so it is those kind of issues. He said he thinks there was an issue, can the rafters extend to the building or should they be cut short so the very, very top two feet or something. He said the building inspector was not interpreting it the way he was, the chief building official, the plan reviewer was interpreting it a different way so we are still working through the process but they are doable things, you have to cut off the rafters that extend toward the building and those kind of things so it is what they can address and you meet the egress requirements and those kind of issues that are life safety and sometimes more of a hindrance to getting a permit. He said these are heavy timbers so they count in a different way than traditional wood framing does, timber framing is a type four construction or is it a type five construction, both are guidance that we are working through with them.

Mr. Lewis said he thinks one of the requests at the last meeting was for you to provide us with who the contractor was that built this.

Mr. Ciciretto said yes, we did not do that, we still owe Ms. Endres that. He said it was a carpenter that Mr. Oppedisano got, who Mr. Ed Radick said that he had a carpenter that could help him build this.

Mr. Oppedisano said he doesn't remember his name.

Mr. Ciciretto said it was not a company, he thinks it was just a trade man and he does hope we can find the name.

Ms. Endres said if he could get his name and phone number she would like to have a chat with him.

Mr. Lewis said it is tough when you use a contractor that is not licensed or bonded or insured. He said if you are building a treehouse in your backyard but when you are doing something, when you are having a place of assembly we have public safety involved.

Mr. Ciciretto said exactly and that is why we went back through the building and did catch some things, some rafter tie-downs and things like that that we thought should be added to it which have been, by the way, and he has made these recommendations to Mr. Oppedisano prior to submitting it to the building department so the rafter tie-downs were installed. He said a lot of times on a structure like this it is not really about it coming down, it is really about can the wind catch it like a kite and pull it up, you can build in some safety factors that allows the air pressure to move under it without uplifting but there were rafters that weren't tied down they were just toe-nailed in and that would be something that the carpenter should have known to put tie-downs on but it has been taken care of, that has already been done.

Mr. DeWater said he still has the issue that Mr. Oppedisano was asking for forgiveness for the second time that we are having to go backwards instead of the proper channels in the first place. He said it puts this board in a position, like he said last time, that when we approve something after the fact our credibility as a board gets depleted.

Mr. Ciciretto said he agrees.

Mr. DeWater said it is just a real tough position.

Mr. Ciciretto said the real question is if you want a business to be viable in Bainbridge Township and you recommended to Mr. Oppedisano to put the patio, at the last appeals hearing, in the back, he followed suit.

Mr. Murphy said no sorry.

Mr. Ciciretto said you did.

Mr. Murphy said we said you can't have seating in the front, that is all that was said and he moved the patio to the back.

Mr. Ciciretto said that is not right, that is not how he remembers it because that was the question at the time that we discussed where is the location of the dumpster and can you fit a patio in the back and he thinks the minutes would reflect that. He said he would tell you that we left clearly with the understanding that we shouldn't have a patio in the front because of the incident with Mrs. Ann Myers over at the diner and that if anything we should be looking at putting it in the back because frankly he remembers leaving and thinking is it a lot safer in the back parking lot than it is in the front where we have a lot of safety restrictions.

Mr. Murphy said nobody said to go build something in the backyard.

Mr. Lewis said we may have identified that that was the location to do such but you guys were in because you had built something without coming before us in the front.

Mr. Ciciretto said correct.

Mr. Lewis said you talked about building this outdoor thing located in the back you still need to come back and see us before you do anything.

Mr. Ciciretto said of course and had he known that he was going to put it in he would have recommended that he got the drawings and gone through the process but sometimes you get caught up in running a business and you are trying to remain viable and you know that all of your competition is dining outside in the same conditions.

Mr. Lewis said nobody has a problem with the business trying to survive.

Mr. Ciciretto said he understands and Bainbridge has always been good about that.

Mr. Lewis said the issue is doing things without following procedures.

Mr. Ciciretto said the real question is if we came in with this exact plan prior to it being built what better could he have done and what would he have done, would you in your mind say now you don't think we should build this patio in this location even though it is far from a residential property as possible it could be on this property.

Mr. Lewis said you took care of the lighting and you have adequate parking there would be no reason to say it is deniable so you understand the rub and that is what Mr. DeWater is saying.

Mr. Ciciretto said he does understand what Mr. DeWater is saying, he sits on other boards himself and he gets frustrated when this occurs but the reality is he thinks he is proven to be a good neighbor and the initial variance that we had to come and seek was not about anything except making his building look nicer for the community, he was looking at this and thinking this is a non-structure, it is just an entrance canopy and the landscaping they were putting in so everything that had been done has been done to make it better and a more enjoyable place for Bainbridge residents to have dinner and enjoy themselves. He said yes, he agrees with Mr. DeWater, it is awkward but the real question is, is it something that shouldn't be approved and he doesn't believe that it is, he thinks that had he come to you in a proper manner you would have thought that this is a reasonable approach to getting outside dining and a patio for the restaurant.

Mr. Murphy said that is well said.

Mr. Ciciretto said thank you.

Mr. Murphy asked if there is anyone else here for this application.

Mr. Gutoskey said now that we have the scaled drawings he is looking at the dimensions of the parking and when you start looking at the 85 spaces but he sees that that is not enough width this way, he referred to the site plan, to have code type spaces because normally when you have angled parking your spaces are 18, your aisles are 18 so when you look at this length here in this corner you should be up to about 108' but he is scaling it and it is about 10' short at that end.

Mr. Lewis asked if they do not fit.

Mr. Gutoskey said there are spaces there but they are not conforming.

Mr. Lewis asked if they are planning to stripe this.

Mr. Ciciretto said this is how it was striped when they came for the first conditional use permit.

Mr. Gutoskey said it is striped now but the problem is it is just tight.

Mr. Ciciretto asked Mr. Oppedisano if there are issues with the lot.

Mr. Oppedisano said no, never that he knows.

Mr. Lewis asked Mr. Gutoskey if that is an observation or is that something you want changed.

Mr. Gutoskey said he is just thinking of the general public in and out, safety equipment in and out, he was thinking if you have to get an ambulance in and around and the parking lot is full it will be hard to get around that corner. He said over in here, he referred to the site plan, he is getting 110 but it just narrows down about 10.

Mr. Oppedisano said the times the ambulance has been there they always come through the front parking lot because the customers are in the front.

Mr. Lewis said you have got two driveways.

Mr. Gutoskey said he doesn't know if the ambulance can get under the canopy.

Mr. Oppedisano said they would have to come up from the side.

Mr. Gutoskey said then we are adding more pavement and then there is more lot coverage. He said when they have these surveys done he likes to see them locate the parking and show it on the drawing.

Mr. Murphy said we are dealing with an existing, he doesn't see that we gain anything by adding a sliver but we should make a note of it that if repaving is done it would be desirable to add to make this a recommended width and the parking is a sufficient number.

Mr. Oppedisano asked if they are talking about the west driveway.

Mr. Murphy explained the parking to Mr. Oppedisano.

Ms. Endres said she is going to need a new site plan showing the repositioned dumpster.

The board discussed the parking spaces with Mr. Ciciretto.

Mr. Ciciretto said they lost two spaces and gained two so he thinks they will end up breaking neutral. He said he will revise the location of the dumpster.

Ms. Endres said if there is any question about the number of parking spaces, typically zoning resolutions ask for a lot more parking than is really used so she doesn't know if the board wants to give him a variance for fewer parking spaces so if he redoes the parking lot he has the latitude to maybe reduce the number of spaces and bring the width and length into conformance unless you would prefer that he just come back at that time.

Mr. DeWater asked if they will not be repaving it in the five year span.

Mr. Ciciretto said they repaved over the paved area. He said the advantage of all of the process has been that we have got a firm site plan and it may be to Mr. Oppedisano's advantage at some point to open that up but he doesn't think it is in the immediate plan and the problem is they don't really need 85 spaces at any time because remember right now even though the banquet room is not being used for much of anything so what happens is that either the banquet room and the patio would be used or the banquet and the restaurant would be used but it is rare that you could max out all three of those, Mr. Oppedisano would love that.

Mr. Oppedisano said he has used a valet service at the times when he did need it.

Mr. Gutoskey explained how the spaces can be modified.

Ms. Endres said the size of a conforming space is 9' x 20'.

Mr. Gutoskey said right but these are angled so when on the perpendicular it is 18' but on the diagonal it is 20'.

Mr. Ciciretto said we generated that from what has actually been there, that is the way it has been.

Mr. Gutoskey said the problem you are probably going to have is when you move the dumpster over here, he referred to the site plan, from this corner, you are not going to gain as many here as you are going to lose here because you are in this notch of the parking lot. He said you may lose three here but you only can gain two here. He said on the front setback, when he has a lot like this that is coming in when he looks at the setback to the building he just takes it from the building corner perpendicular to the right-of-way so he is getting 87' scaled. He said when he scales 109 he doesn't know where that comes from and the 90 is to the pin.

Mr. Ciciretto said he thought it was right there, he referred to the site plan.

Mr. Gutoskey said that is more it is like 116. He explained how he calculates the setback from the right-of-way. He said if a variance is granted to that corner it should 87' versus 100'.

Mr. DeWater said last month Mr. Lamanna talked about music and hours of operation for the patio.

Mr. Ciciretto said he thinks we talked about 10:00 P.M. on weeknights and 11:00 P.M. on Fridays and Saturdays for the patio.

Mr. Lewis said when you are talking about 10:00 P.M. you are talking about Sunday through Thursday and then Friday and Saturday until 11:00 P.M.

Mr. Ciciretto said they are closed on Sunday so it would be Monday through Thursday.

Mr. Gutoskey said leave Sunday in there just in case they decide to open on Sunday.

Mr. Lewis said when summertime gets here and the Indians are winning you are going to want people out there.

Mr. Oppedisano said hopefully they win.

Mr. Gutoskey said or those fall Browns games.

Mr. Lewis said let's talk about music.

Mr. DeWater asked if they were planning on music out there.

Mr. Oppedisano said it is just one guy with a guitar and the one guy across from the bar asked if he could play a little louder because he couldn't hear.

Mr. DeWater said just no big bands.

Mr. Oppedisano said the only time it was loud was on his son's wedding day, September 1st.

Mr. Gutoskey said to point the speaker to the west, not to the east.

Mr. Oppedisano said he has a little amplifier.

Mr. Lewis asked where they set up if he is looking at the patio, if it is a one-piece guy and he has a little microphone and his folk guitar, where do you put him.

Mr. Oppedisano said by the kitchen door in that corner, and he referred to the site plan, close to the building.

Mr. Lewis asked southwest.

Mr. Ciciretto said southwest yes so the amplification would be all pointed away from the residential lots.

Mr. Lewis said you started to talk about it a little bit was the interior illumination.

Mr. Ciciretto said basically he has string lights, party lights and basically the building department just asked if they will be UL approved and of course they are but the limit of the lights, there are some ceiling fans to move some air. He said the lighting is limited, it doesn't spill beyond and the lights are just under the patio roof.

Mr. Lewis said they are meant to be over the tables for the guests, they are not trying to illuminate the property they are trying to illuminate where they are sitting.

Mr. Ciciretto said correct.

Mr. DeWater asked if the fire department is going to look at it too for compliance.

Mr. Ciciretto said yes we would be very comfortable with having the fire department look at it and the building department actually looks at the means of egress, fire extinguishers etc. that is out there, it is part of the permit process.

Mr. Lewis asked if there are any questions or complaints.

Mr. DeWater said not at this time.

Mr. Lewis asked if there is any reason not to proceed.

Mr. DeWater said not at this time.

Mr. Gutoskey said the dumpster is moved and the time.

Mr. Lewis said he thought that was taken care of already, after 9:00 A.M.

Mr. Oppedisano said they definitely are after 9:00 A.M. which is once a week.

Mr. Lewis asked if we decided on a minimum dumpster pick up time, not at 4:00 A.M. in the morning.

Mr. Murphy said he thought after 7:00 A.M. or after is acceptable.

Mr. Oppedisano asked the board about the parking on the northwest corner about modifying the parking spaces.

Mr. Lewis said to modify the site plan and meeting with Ms. Endres before anything is done.

Mr. Gutoskey said it is going to change the lot coverage a little bit.

Mr. Lewis said he is working on how to separate the variances because some of these actually apply to BZA application 2018-50 and some of them apply to 2018-51 so we will just do them together.

Mr. Ciciretto asked if there was really something related to this because he thinks they all pre-existed the building, all of the variances they were asking for.

Mr. Lewis said from what Ms. Endres was saying he doesn't know if we have a record so he is just going to go through it.

Mr. Ciciretto said aren't you really granting variances for BZA 2018-50.

Mr. Lewis said everything but the patio.

Mr. Ciciretto said the patio is not a variance, the patio and lot coverage is already established. He said he thinks these are all related to the original application.

Mr. DeWater said on all applications that have come to us for variances, if there is anything that hasn't been in compliance, the board has been bringing it into compliance with the current applications.

Mr. Murphy said there were never any variances.

Mr. Ciciretto said he understands all of that and he is not saying that we shouldn't be asking for the variances.

Mr. Lewis said but does it follow the cart or the horse.

Mr. Murphy said it should be on BZA 2018-50, he agrees with that.

Mr. Lewis said he is just going to load them all back in.

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

Secretary's note: All variances pertaining to the conditional use are located under BZA 2018-50.

Motion BZA 2018-51 – 8575 Washington Street

Mr. Lewis moved to grant the following variances for the purposes of maintaining a patio/outdoor seating area for serving patrons with their core business.

1. A variance for the patio from the minimum side yard setback (easterly side) of 100' to 60' for a variance of 40'.
2. A variance from the minimum side yard setback (westerly side) of 100' to 24.4' for a variance 75.6'.
3. The board notes that the structure is a permit-able structure and has been deemed and classified as an assembly building.

Based on the following findings of fact:

1. The applicant has initiated pursuit of building permits as the structure as already been built and is making every effort to conform to the building code and have met with the building department of the county, are following recommendations and that would be a confirmation to the zoning department here that those conditions have been met.
2. The proper inspections will be occurring prior to use and occupancy.
3. The board also notes that the overall properties as joining have a total of 85 available parking spaces which have been allocated at approximately 45 of them for the restaurant and patio activities and 40 of them for the use of the banquet hall but these are also flex spaces so that they are usable for activities of both buildings separately or concurrently with events.
4. The board has a Geauga County letter on file with the recommendations, construction wise, of refinements and adjustments that need to be conformed to and that is on file with our zoning department as well.
5. This patio is an expansion of an existing conditional use permit and conforms with the use of the restaurant that has held the primary permit over the many years.
6. This is a pre-existing non-conforming lot of record and the expansion that the applicant is proposing and the board is approving is consistent with their core and primary business use, there is no change in what services will be provided on the patio that is with the restaurant.
7. The applicant has agreed to all of the board's conditions to ensure there is no adverse effect on any of the adjacent properties including lighting, sound and activities.
8. For the record, there is nobody here opposing this applicant's activities.

Mr. Gutoskey seconded the motion.

Vote: Mr. DeWater, nay; Mr. Gutoskey, aye; Mr. Lewis, aye; Mr. Murphy, aye.

Application 2019-5 by Soupbase, Inc. for property at 7207 Chagrin Road

The applicant is requesting a substitution of a non-conforming use. The property is located in a PO District.

Mr. Lewis moved to continue this application to the next the next regularly scheduled meeting to be held on April 18, 2019 at the request of the applicant.

Mr. DeWater seconded the motion.

Vote: Mr. DeWater, aye; Mr. Gutoskey, aye; Mr. Lewis, aye; Mr. Murphy, aye.

Application 2019-6 by The Set Fitness, LLC for property at 7207 Chagrin Road

The applicant is requesting a substitution of a non-conforming use. The property is located in a PO District.

Mr. Lewis moved to continue this application to the next the next regularly scheduled meeting to be held on April 18, 2019 at the request of the applicant.

Mr. DeWater seconded the motion.

Vote: Mr. DeWater, aye; Mr. Gutoskey, aye; Mr. Lewis, aye; Mr. Murphy, aye.

Application 2019-7 by New Life Fellowship for property at 18000 Chillicothe Road

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

Pastor Doug Frano was present to represent this application.

Pastor Frano testified that they have sold the previous location at 18046 Chillicothe Road which they had and they want to continue to use this property as a church and the ballfields are outreach to the community. He said this is just a home group in terms of 8 – 12 people, their attendance is down and that is why they sold the previous property and they are not looking to build a big church they are looking to continue a small group and if it grows they would establish other small church groups in Aurora and also Chesterland locations in people's homes. His said their goal is to be more missional in terms of outreach and helping people for building a church in the Philippines, instead of just being a church as normal, people coming in and attending, we want people going out and doing work as a service so it is a different mission so basically they are looking just to continue to have home Bible study and prayer time, they are not looking to expand. He said they can use the parking at their previous location, St. Luke Antiochian Church will allow them to use the parking, they don't need it and also Lord of Life across the street has agreed to let us use it if we need it, but we are only talking three or four cars with that few people. He said with the sale of the property the house was the parsonage and it is deeded under the church name as well.

Mr. Lewis said let's start with the house. He said you are going to have home group church, kind of like study groups.

Pastor Frano replied yes.

Mr. Lewis asked if that home is ADA compliant with ramps and doors for access.

Pastor Frano replied no. He said currently none of the people attending are disabled.

Mr. Lewis said yes but it is still the business of religion and it is an organized group meeting.

Pastor Frano said he understands.

Mr. Lewis said it is not you having guests to your private residence.

Pastor Frano said sure.

Mr. Gutoskey said the problem is you are retrofitting into an existing house so there are ramps, door widths, and accessibility.

Mr. Lewis said at this house, front door, side door, rear door, and asked if there is a place they can provide a ramp, he is not real familiar with the house.

Pastor Frano said he doesn't know how feasible that would be because he knows it is not a 36" door, it is 32", it is an old farmhouse built in the 1930s. He said they do have the option in the warmer summer months, as it warms up, they can actually use the clubhouse building out back and you don't need a ramp, there is no door, it is a sliding farm door and they can meet in there and that is larger than 36" and there are no steps up to it.

Mr. Lewis said this brings up a ton of questions.

Mr. Gutoskey said we had a church on Country Lane but that was a different situation too because they had a lot more members here but the problem is when it grows.

Mr. Lewis said it is subject to hours of operation, occupancy, parking, lighting for safety, the whole ADA thing and we haven't even touched the Field of Dreams yet.

Mr. Gutoskey said and fire department accessibility and we should see something in writing that they can use the adjacent parking lots, the parking to the south and the parking lot across the street that belong to the adjacent churches.

Pastor Frano said right now there are so few people that we don't even need to use those parking lots but that is just something that he checked to make sure.

Mr. Lewis said when you get into occupancy and fire and all of the other codes that go with it, it is where are you going to park the cars, how many are there going to be and how many people are in that house which also has to do with your bathrooms, it goes on and on and on. He asked how many bedrooms are in that house.

Pastor Frano said three bedrooms.

Mr. Lewis asked if there is one full bath.

Pastor Frano said one full bath and one half bath.

Mr. Lewis asked how many can you stick in a house of that size, 12 people.

Mr. Gutoskey said it comes back to the same thing that we ran into with the church on Country Lane, it is a function of the square footage, the floor square footage and it is toward your occupancy because it goes back to building code.

Mr. Lewis said here is what we are struggling with, we don't have enough documentation, a church in an R3 district is a permitted use, that is the easy piece. He said we have to craft conditions or restrictions but we have got to set up some boundaries. He asked how big the house is.

Pastor Frano said 1,600 sq. ft. and it doesn't include the square footage for the clubhouse building that we could use.

Mr. Gutoskey said there is a whole laundry list of items that have to be addressed here that really haven't been addressed with the application.

Mr. Lewis said no. He said we are missing a ton of information.

Ms. Karen Endres, Zoning Inspector testified that they are.

Mr. Lewis said he thinks maybe this page with the requirements, if we get a copy of that to our applicant. He said there is a lot of material in the zoning code to be met.

Mr. Murphy said the problem is there are only four people showing up but when 30 individual cars show up, there are no plans for that.

Pastor Frano said if we can't fit them we would go rent a larger space, we have options to rent other churches or the other option is other home groups, we are not going to get larger than 10 to 12 people.

Mr. Murphy said you are taking a residence in a residential district and we are granting a church use.

Pastor Frano said it was a church before, it was part of the church property and we had a conditional use before.

Mr. Gutoskey asked if there was ever a conditional use on this property for a church.

Ms. Endres said it was church owned but she doesn't have a record of services being conducted in that building but this property was part of the property the church owned.

Mr. Gutoskey said all of the conditions were on that other parcel.

Mr. Lewis said the conditional use follows the occupant, it is not like an area variance that follows the land so you are a new entity so regardless of who owned this in the past, we have to start from scratch.

Mr. Gutoskey said he doesn't know if there was ever any conditional use put on this for a church.

Pastor Frano said they used it for classes and other meeting things even when it was all together, part of the 21 acres.

Mr. Gutoskey said it is a separate parcel not connected.

Mr. Murphy said it was part of that church and the church has been separated and sold off and he thinks it is a residence.

Mr. Gutoskey said when we are granting variances or conditional uses it is attached to a permanent parcel and that parcel was separate from the church to the south because there would have been something in the files that it was included.

Mr. Lewis said anytime there is a change of ownership of a parcel and the new owner is requesting a conditional use permit.

Pastor Frano said there is no new ownership here, it is continued ownership.

Mr. Gutoskey said but when you came in here for your original conditional use was that parcel included in that conditional use. He asked if there are any records in the file that include this parcel. He asked Pastor Frano how long they were in the old building.

Pastor Frano said 18 years, since 2001.

Mr. Murphy said Holy Angels still had it in 2001.

Pastor Frano said we purchased it from them.

Mr. Murphy said and you think you also applied for the building next door, the residence and it became part of the church.

Mr. Gutoskey said that we can look back in the old minutes and determine that.

Ms. Endres said she is looking at the application for the conditional use and the only parcel number mentioned was 02-729275 and what she is looking at is the original application for Full Gospel Assembly.

Mr. Murphy asked about the year on that application.

Ms. Endres said 8-16-2000.

Mr. Lewis said that parcel would have had its own application.

Mr. Gutoskey said even if you have the use of the other two parcels he thinks this particular parcel would have to be a stand-alone and be able to handle the parking.

Mr. Lewis said you have the ballfields.

Pastor Frano said yes.

Mr. Lewis said we want to talk about that as well.

Pastor Frano said they don't plan to use that as a church.

Mr. Lewis said no, however, the use of the ballfields, renting it out, letting rec leagues in, using it for your congregation members only or has it become something that the public can use, he can go rent it for the day, there are a lot of activities there that go way outside of your core business activities when you look at conditional uses pertaining to worship and church and that kind of thing.

Pastor Frano said several of the Kenston teams are using it. He asked if they need a separate conditional use for the ballfields.

Mr. Gutoskey said the problem is the way the code is for a place of worship, "places of worship provided no part of any building or land for place of worship use shall be used for business, commercial use and non-place of worship related activities".

Mr. Lewis said it is pretty narrow in scope.

Pastor Frano said they are not using the ballfields as commercial, it is still non-profit, we are letting the teams use it.

Mr. Lewis said if it is your congregation you are serving your congregation.

Pastor Frano said no our congregation doesn't use it, it is strictly for the kids in the community.

Mr. Gutoskey said it could be an outreach.

Pastor Frano said it is an outreach, exactly, that is what we use it for. He said they had a team from France playing on there several years ago.

Mr. Lewis said say you are having a membership drive.

Mr. Gutoskey said the big thing is parking because normally what we look at is the activity that is going to be on the parcel of the church and if it can handle its own parking on that parcel.

Pastor Frano said for the baseball we are going to continue to use the Antiochian parking for the baseball, that has been agreed to. He said as far as for the home group which is on Saturday we can use their parking lot and Lord of Life if we need it but there hasn't been that many cars to even need those but he has reached out to them for them to be able to use it.

Mr. Gutoskey said understandable but the problem is the activity has to be able to sufficiently be handled on that parcel because they could say you can't park here anymore so that is what we look at. He said the first person who was in here could say he doesn't have enough parking so he is going to park his cars across the street in the shopping center there. He said it doesn't seem right now that you have a problem.

Pastor Frano said correct.

Mr. Lewis said if you are putting 10 – 12 people in there and half a dozen cars show up for worship service or study group in the house that is not too tough but little kids don't drive cars and you end up with 20 – 30 cars coming in for a baseball game, now it gets to be a little tricky.

Pastor Frano said that is why we are using Antiochian church, we have an agreement.

Mr. Lewis said he knows and he gets that but we probably need to see evidence of that agreement.

Pastor Frano said okay.

Mr. Lewis asked if there are restrooms at the baseball fields or was a porta-potty set up.

Pastor Frano said a porta-potty.

Mr. Lewis said you can run them in seasonally.

Pastor Frano said yes, that is what they do.

Mr. Lewis asked about concessions.

Pastor Frano said no they have done some cookouts for the people like hotdogs, hamburgers, they have had their own barbecues, the teams.

Mr. DeWater said his question is would we be better set providing him with a list of items he needs to work on, work with Ms. Endres for the month and come back next month with everything.

Mr. Lewis said that is what he is thinking, we will give him a complete package and he will have some solid direction.

Pastor Frano said sounds good.

Mr. Gutoskey said Ms. Endres and Mr. Dietrich can help you.

Ms. Endres asked the board if they want a full-size site plan like the one the Church in Solon provided, she just wants to be clear on what the board is expecting. We need to go through all of the conditions, the general and specific to make sure they are all addressed.

Pastor Frano said and as far as the baseball field use you just want to see something in writing from the Antiochian church allowing us to use the parking lot, correct.

Mr. Lewis said yes.

Ms. Endres said she wants to make sure they come back with everything, such as the Church in Solon had to enlarge its driveway but that was a bigger use than what is proposed here. She asked the board if they want a simple site plan showing the driveway and parking areas.

Mr. Lewis said Ms. Endres nailed most of it, hours of operation, occupancy based on the square footage of your house which then relates to parking spots. He said he thinks the ADA thing, a ramp is going to probably haunt you a little bit because of what you are using it for, there may be a fire inspection required because now it is not being used as a residence so you kind of fall into a different classification.

Pastor Frano said we are living there so it is dual purpose.

Mr. Lewis said but it is a formal meeting place which qualifies you to make the application for a conditional use permit as a church in a residential area as opposed to just having a few neighbors over for a Bible reading so you've got a little more formal approach so the standards just get a little tougher.

Mr. Murphy asked about the septic system.

Mr. Lewis asked if that is septic.

Pastor Frano said yes.

Mr. DeWater said make sure the septic is operational.

Mr. Lewis said now we get into the capacity of the septic system and that relates to your occupancy thresholds.

Mr. Gutoskey said it is just a matter of having it checked, worst case is there is the force main across the street that they could tie into so they do have a connection to the sewer possibly if they need it.

Ms. Endres said she understands that nobody is living in the home and is that correct.

Pastor Frano said he and his wife are living there.

Mr. Gutoskey said whatever is required to meet the conditional use, whatever our code requires for a church.

Mr. Murphy said some of which is on here, 117.13 .

Mr. Lewis said it is all published code, Ms. Endres can assist getting you the whole list.

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

Motion BZA 2019-7 – 18000 Chillicothe Road (New Life Fellowship Church)

Mr. Gutoskey moved to table this application to the regularly scheduled meeting in May to be held May 16, 2019.

Mr. DeWater seconded the motion.

Vote: Mr. DeWater, aye; Mr. Gutoskey, aye; Mr. Lewis, aye; Mr. Murphy, aye.

Application 2019-8 by Erin M. Feldman for property at 18890 Brewster Road

The applicant is requesting area variance(s) for the purpose of permitting a shed to be used for a home occupation and to maintain an existing barn for non-agricultural uses. The property is located in a R-5A District.

Mr. Lewis stated that the applicant is requesting a zoning certificate for a home occupation that would include sales of antiques, eggs and honey to be run from buildings on the property and use 100% of an outbuilding to sell these products and use about 25% of a barn for the restoration of antiques.

Mr. Lewis continued by saying at one time the property was a farm and the barn and shed were constructed with no permits as agricultural buildings along with a corncrib that is currently being used for chickens. He said as stated above the applicant would like to change the use of the shed to permit it to be used for 100% of the home occupation and change the use of the barn to permit it to be used as residential storage and for restoring antiques and the barn and shed are closer than the required 50' setback on the south side of the lot line.

Ms. Erin Feldman was present to represent this application.

Ms. Feldman testified that if you look at the map the building to the upper right is the shed that she is talking about, she referred to the aerial photo, that is referenced in the application. She said it is 10' x 18' square and right now she just uses it as her garden shed and because she has chickens and she is hoping to get some hives for local honey on their property and she was thinking she could use that space to just kind of sit and have people come up to sell the eggs and honey and because she will be there she was thinking maybe she would throw a few antiques in there to kind of see if she could generate a little bit of business that way but as you can see the space is relatively small so it wouldn't be anything major, it is just a small structure and then the teeny tiny little building there, that is the corncrib and that is where they have the chickens housed. She said basically they have kept that structure completely intact, inside is where they built the chicken coop so that the structure looks exactly the same from the outside. She said she is asking for use of 100% of that white shed as opposed to the 25% that you are allowed with home occupations because 25% would give her maybe half the size of that desk, not a lot of space.

Mr. Lewis asked Ms. Feldman to tell the board about the barn.

Ms. Feldman said the barn was built from what she understands in 1850, it was the old Henry property barn. She said she doesn't even necessarily think she will need to use any of space, she and Ms. Endres have been talking and she thought if she were to purchase a piece of furniture that she wanted to sell and it might need some work that maybe she would use just a little corner of that barn to restore it but she doubts even that she would need to use the space but she thought it would be better to put it in there just in case. She said partly the barn is used just for hobbies.

Mr. Lewis asked about the eggs. He asked how many chickens she has currently that are egg layers.

Ms. Feldman said five and then they have two Bantam roosters and they just purchased 13 more peeps, they originally had 12 chickens and between coyotes and hawks they are down to seven but only five laying because the other two are roosters.

Mr. Lewis asked her what she does with the eggs she has now.

Ms. Feldman said eating them only, it is only five hens so they get maybe one a day if they are lucky. She said she does have friends that she gives them to.

Mr. Lewis said so there is no sign out front, people aren't dropping by for eggs.

Ms. Feldman said no, there is nothing, no.

Mr. Lewis asked about her honey aspirations.

Ms. Feldman said it is just an aspiration at this point, she contacted the Geauga County Beekeepers Society and she hasn't heard back from them, she has friends in Lake County that have hives and from just speaking with them they said that sometimes they are looking for additional places to place hives so they have a broader scope for their bees to collect honey and because they are on almost six acres and a lot of the land is just open field she thought if someone wanted to place some hives on the property she would love to help the bees out and then maybe sell some of that honey out of that little shop but she is still in the baby stage of that because Geauga County Beekeepers hasn't gotten back to her and she has reached out to a couple of other local county beekeepers societies and still haven't gotten any confirmed people that would like to put their hives on her property.

Mr. Lewis asked about the flowers and plants.

Ms. Feldman said basically if you look in the back of their property they have two large raised beds and they use that for vegetables and flowers and she thought maybe she would just take some cuttings from her garden and put them in some Mason jars and see if people wanted them, nothing on a large scale at all, it would be just what she had, flowers.

Mr. Lewis asked about the antiques.

Ms. Feldman said obviously the space is not very large but she was thinking if she had a space she might as well maybe use it to show some things, it would just be a very small number and she would also set up a web page so she would do most of her selling online but that way if she should have this structure, if people did want to come and visit they could at least see some of the items.

Mr. Lewis said he had some questions related to doing business. He asked what her hours of operation are forecasted to be.

Ms. Feldman said she was thinking that she would probably have her hours of operation during the workweek maybe 10:00 A.M. to 5:00 P.M. and then on weekends probably about the same, maybe in the summer having until 6:00 or 7:00 because there are more daylight hours but that is not anything set.

Mr. Lewis asked if she plans to advertise.

Ms. Feldman said part of the application is having a sign.

Mr. Lewis said he was talking about newspaper, radio.

Ms. Feldman said she wasn't planning on it, she was just going to use the sign and then by word of mouth, she doesn't really want it to be a big business she just wants something to have, she is a stay at home mom with her three kids and she would love to be able to stay at home with them and maybe earn a little bit of money.

Mr. Lewis said on one of her applications she was talking about looking for three to six off-street parking spaces.

Ms. Feldman said right but she doesn't even think she would ever have that but as you can see at the bottom of the screen that part where the van is is concrete and then the rest of the drive is gravel and as you can see that white truck is parked there, you could park multiple vehicles there if needed and that is where she was envisioning having some parking but she wouldn't even think that she would need that at any one time but she thinks there is space for it, she can't imagine more than one person being here at the same time.

Mr. Lewis said with your category of antiques, talking about consignment or only ones that you buy and resell or refinish and resell.

Ms. Feldman said that is a good question. She said possibly both but if that complicates things then she would look into that further, right now she is thinking herself and the other thing is and this was not on the application because it is a most recent thing, she does cross stitch and other stitchery embroidery and things like that so maybe that sort of stuff going in there but again it would be her that would be creating that.

Mr. Lewis said you are applying for a home occupation.

Ms. Feldman said right at 100% as opposed to the 25% which is allowed.

Mr. Lewis said there are a lot of things that go with home occupation beyond just the space. He asked Ms. Feldman if she reviewed the employee or head count requirements.

Ms. Feldman said yes, it would just be her, there are no other employees.

Ms. Endres said in your packets there should be a list of all of the home occupation requirements and then the points that were addressed for each item.

Mr. Lewis said here is his challenge with what the proposal is. He said you (Ms. Feldman) are in a residential district, this is not CB, commercial business, this is not a retail district.

Ms. Feldman said correct.

Mr. Lewis said what you are proposing essentially is to put a retail store open seven days a week to the general public in a residential area, it is not permitted. He said this is substantially beyond the definition of home occupation and he appreciates that the building is small, it is 180 sq. ft., 25% of that is about enough to put a desk and a phone in.

Ms. Feldman said right.

Mr. Lewis said signage out at the street, a retail business running seven days a week in a residential neighborhood is typically home occupation, sales office, insurance agent, somebody doing minor activities, maybe an artist with their studio seeing potential clients on an appointment type basis, not drive-by anytime retail type traffic. He said he gets web sales, she can't do it with perishables but non-perishables can be sold over the web. He told Ms. Feldman he appreciates her enthusiasm, her desire to do some great things, this is from his standpoint, this is a lot and he really has to look at whether or not there is an adverse effect on the adjacent property owners which is not just necessarily the guy whose lot is right next door to you.

Ms. Feldman said right.

Mr. Lewis said but a retail coming and going is a little bit different than you got some eggs, you put a little stand at the street, it is the honor system, drop by, bucks in and take a dozen. He said he is going to let some of the other members of the board weigh in and ask some questions.

Ms. Karen Endres, Zoning Inspector testified that the main problem with the home occupation is the fact that there is going to be antique sales, that is the commercial part, if she wanted to sell eggs, flowers, honey that would be agricultural.

Mr. Gutoskey said right exactly.

Ms. Endres said the reason it is in front of the board is because of the antiques and possibly the honey that is produced off the property, there may be honey produced by a friend at some point.

Ms. Feldman said right.

Mr. Lewis said she is absolutely right, on-premises produced agriculture products.

Ms. Endres said some of what she is asking to do can't be done, it is the antique part and off-property products.

Ms. Feldman said if she is going to bring the honey in and ideally what she would like to do is have someone who is looking for additional property to house their hives so they could benefit from that space.

Ms. Endres said the big thing is the antiques.

Ms. Feldman said right and that would be the part that would be mostly web based but if possible she would like to have one or two pieces showing in that shed if possible.

Mr. Gutoskey said another thing, this section of Brewster Road is not so much conducive to traffic as other areas of the township with a grade and the windiness of the road there.

Mr. Lewis said it is a tricky area.

Ms. Feldman said she doesn't necessarily want to increase or she doesn't anticipate and granted she can't control that at this moment but she doesn't anticipate there being traffic.

Mr. Murphy asked about the circular driveway.

Ms. Feldman said that driveway that goes up is what leads to the barn so it is a straight driveway, you can turn around down where that white truck is, no, that is not the barn, the barn is the red structure to the right.

Mr. Murphy asked what is the driveway way up above to the left.

Ms. Feldman said that is the person's house in front.

Mr. Gutoskey said this lot is around six acres.

Ms. Feldman said yes, just about.

Mr. Murphy said he personally doesn't have a serious problem with it, he thinks that if you have neighbors complaining and traffic problems then it might be but whether you are going to have some refinished chairs or not back there. He said if she were to ask for 25% of the barn and it has the same square footage as the shed, he doesn't see a problem, he really has no problem with this other than if she is moving bulk goods and she has 20 cars a day.

Mr. Gutoskey said and moving vans coming in and out.

Ms. Feldman said she honestly never envisioned that being the case.

Mr. Murphy said he appreciates that.

Ms. Feldman said she understands.

Mr. Murphy said but a year from now if you have ten neighbors here complaining about that and maybe we give it a year, something shy of five.

Ms. Endres said this is not a conditional use so it would not be subject to BZA continuing approval.

Mr. Lewis said it is an area variance.

Mr. Murphy said she is asking for an exemption on the square footage.

Mr. Gutoskey asked if there is anybody in the audience that is here for this.

Mr. Lewis asked Ms. Feldman if she provided a survey.

Ms. Feldman said she was given a list that Geauga County provided and she doesn't know total how many are on there but she called 17 local surveyors from that list and nine of them are out of business or have retired or have passed away so she is going to give an update. She said Mr. Gutoskey was one of the 17 she contacted, nine of which are no longer in business so depending on how you guide her she will then get a survey of the land if that is what is required.

Mr. Lewis said the notes say that the barn and shed were formally used for agricultural purposes.

Ms. Feldman said right.

Mr. Lewis said they are now being used for non-agricultural purposes. He said variances are needed for the south side lot line to permit the buildings in non-conformance with zoning and to do that you need a survey.

Ms. Feldman said right.

Mr. Lewis said you've got real hard dimensions.

Mr. Gutoskey said but if it is considered agricultural does she need the variance.

Mr. Lewis said you dump the antiques and you go eggs, flowers and vegetables and on premises produced honey.

Ms. Feldman said right.

Mr. Lewis said then he thinks it can stay agriculture.

Ms. Endres said that is true, if the shed is used for agricultural purposes and it would be continually agricultural use it wouldn't need a variance. She said they added the barn because the barn is not being used for agriculture, it is just kind of one of those housekeeping deals where the barn was always used for agricultural purposes but it is no longer used agriculturally, it is like any other detached garage or barn so she would have not called her in for this if she wasn't here already for the home occupation but this is one of those clean-up deals when we try to get everything into compliance with zoning.

Ms. Feldman said she doesn't have to use the barn. She said she and Ms. Endres discussed that as a possibility.

Mr. Gutoskey said if you were agriculture you could use the whole thing based on what the survey is going to probably cost because this is an interesting piece of property with the river etc., you will have to sell a lot of antiques to just pay for the survey.

Ms. Feldman said right.

Mr. Gutoskey said you may be better off that you stay away from antiques and sell eggs, honey and flowers.

Mr. Lewis said and if you leave the barn classified as agriculture and asked about fertilizer.

Ms. Feldman said her garden shed was the little shed and now if she uses that little shed she is going to be moving her organic fertilizer to the barn.

Ms. Endres asked if she stores the straw and chicken feed in the barn.

Ms. Feldman said she actually doesn't but she could.

Mr. Gutoskey said he had the same concerns about the antiques and the traffic on that street and it has pretty much been a residential area for a long time.

Ms. Feldman said right and she doesn't want to change that, she loves her neighborhood and she loves her farm and she loves her property and she wouldn't want to change that so she understands the concern and that is one of the reasons she brought it to the board as she realizes that there is potential.

Mr. DeWater said maybe try agricultural for a while to see if that takes off because you can always come back to request adding the antiques at a later date and changing stuff then but go with agriculture to see if it even works out for you.

Ms. Feldman said right, she realizes that, she had no idea.

Mr. Gutoskey said with agriculture she doesn't really need anything from this board. He asked Ms. Endres, if this stays agriculture, we really don't need to act on anything as home occupation correct.

Ms. Endres said if the use is agricultural, correct, if it were not for the antiques part of this, it wouldn't be in front of you, the antiques using 100% of the building. She said if Ms. Feldman could have done the antiques and used only 25% of the building and gotten administrative approval from me, it is because she is selling antiques in the shed and using 100% of the building. She said another way you might look at it is maybe only 25% of the building can be used for antiques.

Mr. Gutoskey said but then you run into the problem of her needing a survey and variances are needed on the building.

Ms. Feldman asked if she were to just do the antiques online and not have any antiques on her premises for people to come and look at then that would meet the criteria.

Ms. Endres said it should because if you do online sales, the computer is probably in your house with a desk.

Ms. Feldman said it is.

Ms. Endres said that is a permit she would have issued without going to the board of zoning appeals.

Ms. Feldman said so she can do that if that is what you think.

Mr. Lewis said what the board is talking about doing is just dismissing your application without prejudice, you stay 100% agriculture, anything you sell in agriculture products you must produce on your property.

Ms. Feldman replied yes.

Mr. Lewis said there is no retail antique anything.

Ms. Feldman said right, unless it is online.

Mr. Lewis said what you do with web sales may be what you do with web sales but there is no showroom, there is no point of sale on your premises.

Ms. Feldman said except for the agriculture, the eggs and the honey that is produced on site and then flowers.

Mr. Lewis said as Mr. Gutoskey is mentioning we don't need to change the classifications of your buildings, you don't need the expensive surveys and if you stay egg you pretty much have 100% use of all your space in all of your buildings.

Ms. Feldman said she is okay with it.

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

Motion BZA 2019-8 – 18890 Brewster Road

Mr. Lewis moved to dismiss this application without prejudice.

Mr. Gutoskey seconded the motion.

Vote: Mr. DeWater, aye; Mr. Gutoskey, aye; Mr. Lewis, aye; Mr. Murphy, aye.

Application 2019-9 by Northeastern Inc. for Lisa Meyer for property at 17122 Sunset Drive

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 2019-10 by Northeastern Inc. for Lisa Meyer for property at 17122 Sunset Drive

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

Mr. Lewis stated that there are two applications that are tied together, BZA 2019-9 for a new single family dwelling and BZA 2019-10 for an accessory building so the board will review them at the same time.

Mr. Mike Davet of Northeastern Inc. was present to represent these applications for the property owner.

Mr. Davet testified that they are building a single family home.

Mr. Murphy said this being Lake Lucerne we probably have an architectural review board letter that says it has been looked at and approved by the neighborhood.

Mr. Davet said he actually spoke to them on multiple occasions and he spoke to them at the beginning of this process and he just spoke to a Ms. Jill Savin earlier this morning. He said their application process and procedure is you come to the zoning and get your zoning approved prior, he has to provide a building permit number as well and Geauga Soil so they require all of your footwork to be done prior to submittal to the review board.

The board commented that that has changed.

Mr. Davet said he has it in bold letters. He said she told him to go get the zoning approval, then go get your permits and then let us see the drawings.

Mr. Lewis said that seems reversed because typically this board doesn't rule on something that is in a direct conflict to their ARB and their standards although we do know what they are with their setbacks and lot coverages.

Mr. Gutoskey said every other one we have done for Lake Lucerne has had an approval from the ARB.

Mr. Lewis asked if Ms. Savin is on the ARB.

Mr. Davet said she is and as what he was told she is the Vice President.

Mr. Lewis asked if we have a copy of that on file.

Mr. Murphy said he thinks the way they have always handled it is most people go to the ARB first and have it approved before you come to us because we can give you our approval and if they change anything there you have got to come back and resubmit everything to us so typically, the way it has always been handled and then they will at their next meeting, after we have granted this, they actually formally approve what they have already looked at. He said it also happens before it comes before us, that is the way it has been for his 13 – 14 years on the board. He said so it hasn't been seen by the architectural review board is the answer to that question.

Mr. Davet said correct.

Mr. Lewis said so they have no idea what you want to do.

Mr. Davet said they are well aware of what they want to do.

Mr. Lewis said you gave them one of these site plans.

Mr. Davet said they are aware that we want to build a single family house.

Mr. Lewis said if you could share your site plan and he also notices that these are two lots.

Mr. Davet said correct.

Mr. Lewis said tell us about the two lots.

Mr. Davet said they are both owned by the same owner obviously and then as he was speaking with Ms. Endres there is a letter that we are going to sign or get signed that can phase the lots together forever in perpetuity.

Mr. Gutoskey said affidavit of fact.

Mr. Davet said that is correct so he doesn't know when or where in this procedure that gets done.

Ms. Karen Endres, Zoning Inspector testified that what she suggested is possibly the board could require a lot consolidation but it is also possible that the board would go the affidavit of fact route.

Mr. Gutoskey said he would have them combined.

Mr. Lewis said he is more inclined to go that direction just because the house physically straddles both lots. He said there is a front awning on this home.

Mr. Davet said there is yes.

Mr. Lewis said and we are advised that it does not show on the site plan.

Ms. Endres said she believes so. She said awnings are permitted yard encroachments, simple awnings.

Mr. Lewis asked if that won't change the setback requirement.

Ms. Endres said with the awning it shouldn't.

Mr. Murphy asked if the awning is off the front porch.

Mr. Davet said no it is off a window on the garage. He showed the board on the site plan.

Ms. Endres said page four of Chapter 161 allows for awnings, attached to and supported by the building walls as permitted yard obstructions.

Mr. Lewis said so the setback holds up at 60'. He asked if the board has any questions on the house. He said the lot coverage calculation includes the proposed accessory building.

Ms. Endres said she believes it does.

Mr. Lewis said that is a pretty substantial accessory building in Lake Lucerne.

Mr. Davet said it is in character of the neighborhood, they traveled through the entire neighborhood and looked at all of the different outbuildings that were there and there are a significant number of outbuildings that are about 24 x 24 in there, basically two-car garages.

Ms. Endres said what the surveyor did was he calculated the lot coverage for each lot individually and then added them together.

Mr. Davet said correct.

Ms. Endres said one lot is 4,063 sq. ft. and the other lot is 2, 187 sq. ft. and she believes he included the outbuilding, proposed drive and garage and this portion of the house.

Mr. Davet said correct and the total combined for both lots because he wasn't sure if it was per lot but the total is 6,250 sq. ft. for both lots. He said lot number nine is 4,063 and lot number 10 is 2,187 and combined is 6,250 and that includes the walkway as well.

Ms. Endres said this is all new construction so there is no patio and no decks.

Mr. Davet said no just that porch you see on the drawing there.

Ms. Endres said this area right through here is all grass.

Mr. Davet said all grass, yes.

Ms. Endres asked if there is going to be a driveway from the outbuilding to the existing driveway.

Mr. Davet said not at this time, none proposed. He said they were concerned about lot coverage so they will just leave it, they will put a lawn mower in there etc., just grass. He said they will probably aggregate it, topsoil it and then just grass.

Mr. Murphy asked if there is anyone interested in these applications.

Mrs. Nancy Olson of 17114 Sunset Drive testified that the house looks gorgeous but what we have an issue with is the outbuilding, the outbuilding is essentially like another two-car garage, it already has a two-car garage. She said when you have driven through the neighborhood the other outbuildings you are talking about are people's two-car garages, they are not outbuildings in addition to garages. She said she brought the Lake Lucerne ARB notes and they state that the outbuildings are basically 120 sq. ft. and they are not to be in eyesight of the road, they are supposed to be set over but this one is about 15' from the lot line and it is 24 x 24, it is huge so we take objection to the outbuilding, not the house, the house looks lovely but the outbuilding is essentially another garage, it is not a little shed that you put a lawnmower in, it is huge so we have a problem with it.

Mr. Gutoskey asked what Lake Lucerne's requirements for outbuildings are.

Mrs. Olson said first it says "visibility of such buildings from the street, the height of the building shall not exceed 12', the size of the building should not exceed 120 sq. ft. which this is more than double.

Mr. Lewis said that is a 10' x 12' accessory structure, your garden variety shed to store your lawn mower in.

Mrs. Olson said someone just put one on their property to the north of them.

Mr. Lewis said you are right, we have all grown up in this area and in Lake Lucerne there are two-car detached garages particularly on some of the older homes that originally were summer cottages that got winterized. He said typically on the new construction you got a two-car garage and an accessory building but this is a pretty substantial structure, also he is looking at the topography of that lot, it seems to be pretty flat and it doesn't look like there is anything in the way, there is no reason that this structure, whatever size, couldn't be tucked within the shoulders of the house so that line of site from the street would be sheltered and hidden.

Mr. Gutoskey said he agrees with Mr. Lewis and that is why we asked you first if you had gone and got approval from the homeowner's association because they would have caught the issue with the shed as far as size, height and typically as a board on sheds that can't meet our code setbacks we like to tuck them behind the house, within the shoulders of the house. He said you have two applications, let's do the house first, then we can go to the shed. He said the only comment he has is he would recommend that the lots be consolidated together versus an affidavit.

Mr. Lewis said he agrees, a formal lot consolidation, and we will put this all in the motion, versus an affidavit in perpetuity and the reason is because the house straddles both lots and will always straddle both lots, we need to join them as opposed to if the house was over here and you had an adjacent lot and that was being bought to satisfy lot coverage but in this case because the structure physically resides on both there would have to be a formal lot consolidation on this.

Mr. Davet asked if that is normal procedure, when he was looking on the GIS system there are several new home constructions in there that are over lot lines, the house is half on two lots or half on one lot and half on another lot and asked if that is normal procedure to do the lot consolidation or is the affidavit in perpetuity adequate because as you can imagine we have to pay for the survey to get it consolidated.

Mr. Gutoskey said you already had the survey done so all you have to do is the legal description, the survey is done.

Mr. Lewis said this is sort of out of order, the sequence of events here.

Mr. Davet said sure.

Mr. Lewis said he is still uncomfortable with that regardless of what the Vice President of Lake Lucerne ARB stated.

Mr. Dale Olson of 17114 Sunset Drive testified that she is brand new.

Mr. Lewis said he has known her for 15 – 20 years and that is fine but his guess is Lake Lucerne hasn't seen this and Lake Lucerne hasn't seen the accessory building.

Mr. Davet said correct.

Mr. Lewis said they haven't seen any of the features, their ARB hasn't caught a breath of anything on it.

Mr. Davet said this is per their direction, he is supposed to furnish them with their zoning permit number, how does he do that.

Mr. Lewis said from his point of view everybody please weigh in, he is okay proceeding with the house application with what we are going to require with the lots, he is not okay with proceeding with the accessory building without anything formally presented to us from the Lake Lucerne ARB so he thinks that we are going to act on both applications tonight, we will act on the house and we will work through area variances and our requirements on that. He said the accessory structure, we are going to go for a continuance and we are going to bump that to next month but we will definitely be letting you know that we are going to need a written document for that and in the meantime because we won't approve this until we meet next month when our minutes are approved that will also give you time to furnish ARB approval of the house as well, two applications, two approvals from Lake Lucerne. He said the board will act on one tonight and continue the other one.

Mr. Davet said when he submits their paper work he will have the zoning permit number for them for the house but not the accessory building.

Mr. Lewis said we have a waiver that basically lets you proceed at your own risk until we do the minutes so with regards to that on the house structure that is something you can take to the ARB but these wonderful renderings and site plan, you need to get on Lake Lucerne's ARB agenda and get this all in front of their committee and let them review it. He said he doesn't know if they contact the adjacent property owners that may be affected specifically what their process is.

Ms. Endres updated the board on House Bill 500 but it eliminates the ability for lots to be vacated from subdivisions and she believes it becomes effective tomorrow.

Mr. Gutoskey said normally you would have to file a legal notice that you are going to vacate lots from a subdivision, advertise it for so many days in a row and then it would get marked on the plat but apparently they are eliminating that part but you can still consolidate the lots together.

Ms. Endres said you would have to re-plat, what would be a re-plat of those lots.

Mr. Gutoskey said yes.

Ms. Endres said she just wants to let everybody know that this Ohio law is changing.

Mr. Gutoskey said the interesting thing about that is Geauga County is the only one who made us go through that and formally vacate the subplot, all of the other counties you can just consolidate.

Ms. Endres said she can't speak to that, she just knows what House Bill 500 is accomplishing.

Mr. Gutoskey said it actually makes it easier.

Ms. Endres said it won't be as simple as just consolidating it will be re-platting those two lots in that portion of the Lake Lucerne subdivision which means it has to be approved at the county level.

Mr. Gutoskey said it has to go through the county anyway.

Ms. Endres asked if the board would want that to happen prior to issuing the house permit.

Mr. Gutoskey said he doesn't know how long a process that is going to be. He said before they get their final occupancy they have to have it consolidated.

Ms. Endres said or give them a certain amount of time, it is better to give a specific time such as 90 days from when the minutes become effective.

Mr. Gutoskey said that way he can get started, it's Spring.

Mr. Murphy said even if we had the Architectural Review Board approval we typically don't like to have the accessory structures visible outside of the shoulders of the house so we would probably turn this down on the application the way it is now without moving it and at this point the size is over what their recommendations are, he doesn't know if those are set in stone, he thinks they are recommendations from the Architectural Review Board and when you go in front of them with your presentation and your pictures etc. they might just say it is back far enough in the corner or whatever so maybe they will let that size go. He said he knows that there are sheds that are bigger than the 10' x 12'.

Mr. Gutoskey said isn't our limit 300 sq. ft. anyway on non-conforming lots.

Ms. Endres said yes.

Mr. Gutoskey said this is 576 sq. ft.

Mr. Murphy said you would need a variance from us as well as from Lake Lucerne.

Mr. Gutoskey said on the square footage for the accessory building.

Mr. Davet asked what the size is.

Mr. Gutoskey said 300 sq. ft. is the maximum size on a non-conforming lot, they are proposing almost double but it is a nice looking building.

Mr. Lewis asked if there is anybody else that has a comment.

Mr. Gutoskey asked if the proposed lot coverage includes the shed.

Ms. Endres said she understands it does include the shed.

Mr. Lewis said we have to take the lot coverage off for the shed.

Mr. Davet said the coverage for the combined lots is 6,250 sq. ft.

Mr. Davet said the AC pad will be little.

Mr. Gutoskey said he calculates it at 18.8% so he recommends 19%.

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

Motion BZA 2019-9 – 17122 Sunset Drive – House

Secretary's note: The Bainbridge Township Board of Zoning Appeals, on April 18, 2019, rescinded the following motion for BZA 2019-9 because the applicant has decided to go forward with a different plan under a new application. See BZA minutes dated April 18, 2019.

Mr. Lewis moved to grant the following variances for the purpose of constructing a new single family dwelling with an attached garage, driveway and walkway.

1. A variance to increase the maximum lot coverage of 10% to 19% for a variance of 9%.
2. A variance from the minimum front yard setback of 100' to 60' for a variance of 40' (from the foundation).
3. A variance from the minimum side yard setback (north side) of 50' to 45' for a variance of 5'.
4. A variance from the minimum side yard setback (south side) of 50' to 33.28' for a variance of 16.72'.
5. A variance from the minimum rear yard setback of 90' to 75.73' for a variance of 14.27'.

With the following condition:

1. The two lots that this home will be built on will be formally combined and joined and proof of that would need to be presented in hard copy to the zoning office prior to final occupancy.

Motion BZA 2019-9 – 17122 Sunset Drive – House

Based on the following findings of fact:

1. This home site resides in Lake Lucerne and these are very small lots and meeting the zoning code requirements and making these buildable sites has been a challenge over many years.
2. The granting of these variances is consistent with the other homes in the area and has no adverse effect on the adjacent properties.

Mr. DeWater seconded the motion.

Vote: Mr. DeWater, aye; Mr. Gutoskey, aye; Mr. Lewis, aye; Mr. Murphy, aye.

Motion BZA 2019-10 – 17122 Sunset Drive – Accessory Building

Mr. Lewis moved to continue this application to the next regularly scheduled meeting to be held April 18, 2019 and as a stipulation for this application the board will require approval documents from the Lake Lucerne Architectural Review Board and to amend BZA 2019-9 and before the next meeting for this property the board will also require the signed approval document from the Lake Lucerne Architectural Review Board and if there are any revisions to the location of the accessory structure or any placement the board will require a new site plan/plat to be provided to the zoning inspector.

Mr. Gutoskey seconded the motion.

Vote: Mr. DeWater, aye; Mr. Gutoskey, aye; Mr. Lewis, aye; Mr. Murphy, aye.

Application 2019-11 by Dan Guardo Construction, Inc. for Thomas E. Skerl for property at 8791 Kings Orchard Trail

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

Application 2019-12 by Dan Guardo Construction, Inc. for Thomas E. Skerl for property at 8791 Kings Orchard Trail

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

Mr. Dan Guardo, contractor and Mr. Thomas Skerl, property owner were present to represent these applications.

Mr. Guardo testified that the initial variance is for the setbacks from both side property lines and the rear so the way it was drawn up originally would allow us a 4' x 10' area to build anything on without a variance, so that is the pool variance.

Mr. Lewis said you are also proposing that it is 43.2' versus 90' from the rear lot line.

Mr. Guardo said right.

Mr. Skerl, property owner testified that all of the neighbors, both sides and back have approved the project as discussed. He said all of the neighbors understood the project and agreed to the program and he addressed any concerns that they had. He said they also received this afternoon Tanglewood's review board or TLA approval with one minor modification at the back of the pool, we have a little pergola going on back there and they asked that it be flat so we just got rid of it.

Mr. Gutoskey said so any changes on the drawings are consistent to what Ms. Endres has for variances, there weren't any changes to the setbacks.

Mr. Skerl replied no, not setbacks. He said he faced the decision whether to move or try to stay in the area, he loves the area and he loves the neighbors and the community and he hopes this works out well, he tried to cover all of the bases with the community and the surveys and hopefully it is acceptable to the board.

Mr. Murphy said you said the original drawing had a covered seating area.

Mr. Skerl said yes it had a little pergola and they didn't want the back to have a roof.

Mr. Murphy said so that is gone and it is flat, it is just a seating area.

Mr. Skerl said yes.

Mr. Guardo said they asked us to take it out.

Mr. Murphy said the pool equipment is behind it, the seating area was covered, that pergola thing was inside the fence.

Mr. Lewis asked if the pad is still there.

Mr. Skerl said yes.

Mr. Lewis said so the lot coverage is the same.

Mr. Guardo referred to the site plan and said this should not even be part of it anymore, its gone, it was right over this little concrete bump out right there and you will see this is the area currently.

Mr. Murphy said it is just a seating area and stamped concrete for the deck.

Mr. Guardo replied yes.

Mr. Gutoskey said you are screening the pool equipment and asked if they are putting landscaping around the back.

Mr. Skerl said shrubs.

Ms. Endres said she thinks that is the most current version.

Mr. Gutoskey said without the pergola.

Mr. Guardo said yes without the pergola and, the latest email doesn't have that.

Mr. Lewis asked if he has a swim up bar.

Mr. Skerl said go big or go home.

Mr. Guardo said is important to rest so you don't cramp.

Mr. Skerl said he won't get most of that investment back but he is keeping it in the family.

Mr. Murphy asked why don't they just swim at the pool so he went on line to look for the pool at the clubhouse and it is gone.

Mr. Skerl said about four or five years ago.

Mr. Guardo explained where the HOA wanted the landscaping and they wanted to be sure if one of the neighbors was standing in the back yard they could not get a clear view of whatever is going on.

Mr. Skerl said the lots behind them are heavily wooded, you can see on the picture. He asked Ms. Endres if she has an overhead of the neighborhood.

Mr. Lewis asked how deep the lot is.

Mr. Skerl said it is 213', it is on the survey.

Mr. Dave Kraninger of 8805 Kings Orchard Trail testified that it is heavily wooded and they will have landscaping along the side.

Mr. Murphy asked if there are any neighbors here interested in this application.

Mr. Tom Goodridge of 17219 Northbrook Trail testified that he lives right next door and he is sure the pavilion is going to be very tasteful and Mr. Skerl would never do anything to lessen his property and he is sure it is going to be first class.

Mr. Lewis said he was looking for Tanglewood ARB approval and that has been satisfied.

Ms. Endres said she just wants to make sure she has all of the setbacks right because she knows there were changes.

Mr. Guardo said everything is within the footprint of the house.

Mr. Guardo said they actually moved the whole thing over two feet because there is a 2' overhang for 1-1/2' for the gutter on the pavilion so he wanted to make sure that everything was behind the house.

Mr. Lewis asked if that was a revision since the first submission.

Mr. Guardo said yes.

Ms. Endres said the very first submission she had was different but she just wants to be sure when the motion is made that they are making it on the most current site plan.

Mr. Guardo said the first time we met in your office he revised it that day so he doesn't know if that even got to them.

Ms. Endres said she pushed this through quickly and had a couple different versions so she just wanted to be sure that the version they are acting on really is the most current so what she is looking at has the house at 24.9' and the pavilion at 22.6'

Mr. Guardo said that is the overhang with the gutter.

Mr. Gutoskey asked about the pavilion lighting.

Mr. Skerl said there are just four can lights, they will go straight down.

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

Motion BZA 2019-11 – 8791 Kings Orchard Trail – In-Ground Swimming Pool

Mr. Lewis moved to grant the following variances for the purpose of installing an in-ground swimming pool.

1. A variance from the minimum east side yard setback requirement of 50' to 36.1' for a variance of 13.9'.
2. A variance from the minimum rear yard setback requirement of 90' to 43.2' for a variance of 46.8'.
3. A variance from the maximum lot coverage of 10% to 38.36% which also includes the lot coverage for the pavilion referenced in BZA application 2019-12.

Based on the following findings of fact:

1. Pools are permitted in the Tanglewood Subdivision.
2. This particular pool is located in the rear of the house and the lot is from 210' to 230' deep.
3. The lot is heavily wooded in the back so it has no visibility from the lot behind it.
4. The pool is a very low profile structure so line of site from the street will not be seen because it is within the shoulders of the house.
5. There are no views from each side yard because it is virtually a ground level structure.

Mr. Gutoskey seconded the motion.

Vote: Mr. DeWater, aye; Mr. Gutoskey, aye; Mr. Lewis, aye; Mr. Murphy, aye.

Motion BZA 2019-12 – 8791 Kings Orchard Trail – Pavilion

Mr. Lewis moved to grant the following variances for the purpose of constructing a pavilion on the same property as BZA application 2019-11.

1. A variance from the minimum side yard setback (westerly) of 50' to 22.6' for a variance of 27.4'.
2. A variance from the minimum rear yard setback of 90' to 61.2' for a variance of 28.8'.
3. The lot coverage is consistent with BZA application 2019-11 in combination with the swimming pool and the pavilion at 38.36%.
4. A variance for the accessory structure/pavilion from the maximum size of 300 sq. ft. on a non-conforming lot of record to 784 sq. ft. for a variance of 484 sq. ft.

Based on the following findings of fact:

1. This is part of an overall pool/pavilion project and as with the pool it is consistent with Tanglewood's lot sizes and approvals.
2. The depth of the lot and the height of the structure are sitting within the shoulders of the house, not visible from the street, on a deep rear, heavily wooded lot site.

Mr. DeWater seconded the motion.

Vote: Mr. DeWater, aye; Mr. Gutoskey, aye; Mr. Lewis, aye; Mr. Murphy, aye.

Since there was no further testimony, the public hearing was closed at 10:25 P.M.

Respectfully submitted,

Ted DeWater
Joseph Gutoskey
Michael Lamanna, Chairman
Todd Lewis, Vice Chairman
Mark Murphy

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

Date: April 18, 2019

AUDIO RECORDING ON FILE

Bainbridge Township, Ohio
Board of Zoning Appeals
March 21, 2019

The regular meeting of the Bainbridge Township Board of Zoning Appeals was called to order at 10:25 P.M. by Mr. Todd Lewis, Vice Chairman. Members present were Mr. Ted DeWater; Mr. Joseph Gutoskey and Mr. Mark Murphy. Mr. Michael Lamanna was absent. Ms. Karen Endres, Zoning Inspector was present.

MINUTES

Mr. Lewis moved to adopt the minutes of the February 21, 2019 meeting as written.

Mr. Murphy seconded the motion.

Vote: Mr. DeWater, aye; Mr. Gutoskey, aye; Mr. Lewis, aye; Mr. Murphy, aye.

APPLICATIONS FOR NEXT MONTH

Application 2019-2 by New Wembley LLC for property at 8345 Woodberry Boulevard -
Continuance

The applicant is requesting a review and renewal of an existing conditional use permit. *The applicant is withdrawing his request for approval of an addition of a new 32,000 sq. ft. building at this time.* The property is located in a R-3A District.

Application 2019-5 by Soupbase, Inc. for property at 7207 Chagrin Road - Continuance

The applicant is requesting a substitution of a non-conforming use. The property is located in a PO District.

Application 2019-6 by The Set Fitness, LLC for property at 7207 Chagrin Road -
Continuance

The applicant is requesting a substitution of a non-conforming use. The property is located in a PO District.

Application 2019-10 by Northeastern Inc. for Lisa Meyer for property at 17122 Sunset Drive - Continuance

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

Application 2019-13 by Speedway, LLC for property at 7353 N. Aurora Road

The applicant is requesting a review and renewal of an existing conditional use permit for a gas station with a convenience store. The property is located in the MUP District.

Application 2019-14 by Michael Blake for property at 8107 Pettibone Road

The applicant is requesting area variance(s) from the front setback and side setback requirements to permit the house as constructed. The property is located in a R-3A District.

Application 2019-15 by New Creation Builders for Anthony Marra for property at 18770 Elmwood Drive

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

The Bainbridge Township Board of Zoning Appeals set a public hearing on the above applications for April 18, 2019 at 7:00 P.M. at the Bainbridge Township Community Hall, 17826 Chillicothe Road, Bainbridge Township, Ohio and unanimously resolved to request the Bainbridge Township Board of Trustees to issue a purchase order for legal advertising.

Since there was no further business, the meeting was adjourned at 11:00 P.M.

Respectfully submitted,

Ted DeWater
Joseph Gutoskey
Michael Lamanna, Chairman
Todd Lewis, Vice Chairman
Mark Murphy

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

Date: April 18, 2019