

Bainbridge Township, Ohio  
Board of Zoning Appeals  
September 28, 2017

Pursuant to notice by publication and ordinary mail, the special public hearing was called to order at 7:05 P.M. by Mr. Michael Lamanna, Chairman. Members present were Mr. Ted DeWater; Mr. Joseph Gutoskey; Mr. Todd Lewis and Mr. Mark Murphy. Ms. Karen Endres, Zoning Inspector was present.

Mr. Lamanna welcomed everyone to the special meeting of the Bainbridge Township Board of Zoning Appeals. He noted for the record that this is the second Board of Zoning Appeals meeting for the month of September, the first meeting was held on September 21, 2017 and announced that BZA 2017-21 has been withdrawn by the applicant.

Application 2017-21 by Family & Community Service Inc. for property at 8885 Washington Street - Continuance

The applicant is requesting a use variance for the purpose of permitting transitional housing for young adults. The property is located in a R-3A District.

Motion BZA 2017-21 – 8885 Washington Street – Family & Community Service Inc.

Mr. Lamanna moved to dismiss BZA Application 2017-21 without prejudice based upon the applicant's withdrawal of the application.

Mr. Gutoskey seconded the motion.

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

Mr. Lamanna explained the public hearing process and swore in all persons who intended to testify.

Application 2017-20 by Gabriel Franklin for property at 7190 Country Lane - Continuance

The applicant is requesting area variance(s) for the purpose of a barn addition and driveway expansion. The property is located in a R-5A District.

Mr. Gabriel Franklin was present to represent this application.

Mr. Franklin testified that as we talked about at the last meeting he came up with a plan as to how to shrink his driveway/lot coverage issue down. He said the entire drawing is the current driveway as it stands today, all of the hashed areas are what will be returned to a non-drive surface and that will bring me down below the previously allowed 15.9% of the previous variance allowed. He said as asked by others he has cleaned up the junk in his yard, sorry if anybody that drove by and saw it, it is now all cleaned up and looks very nice.

Mr. Gutoskey said when you say not drive surface you mean topsoil and grass.

Mr. Franklin said yes.

Ms. Karen Endres, Zoning Inspector testified that she has full scaled plans if the board wants to see them.

Mr. Franklin said he had plans drawn up.

Mr. Murphy said the little hash tag green edging to the back driveway.

Mr. Franklin said yes that is to decrease that back drive which was allotted in the previous variance that was supposed to be 10', that driveway was never 10' when he moved in and all he had done was added stone to that so he will drag all of the back onto the drive to make it 9' instead of 10'. He said all of the gray hash areas will be turned back to grass.

Mr. Gutoskey said we need to establish how soon he can get this done to bring it back into compliance, it is good grass planting time right now.

Mr. Franklin said it is yes, he is not fortunate enough to have a whole lot of funds at his disposal, topsoil is expensive, grass seed is expensive and he was hoping he could at least get six months, he could get some done and then winter would hit and he would not want to have to waste all of his seed and time, he was hoping maybe for six months so he could get some done this year and then break into next spring.

Mr. Gutoskey asked when you put the asphalt grindings down did you strip the topsoil off or did you just put it over the topsoil.

Mr. Franklin said he did strip it off because more on this side of the driveway the larger expansion on this side, there was an Apple tree there that died and had fallen across the driveway so he had a friend pull it out, the stump and everything and then he was constantly tearing up that side anyway so he just had him skin it and get rid of it and then put the grindings down.

Mr. Gutoskey said so you are saying the topsoil that you did strip out you hauled away.

Mr. Franklin said yes, it was muck, mud and clay, it was a real mess.

Mr. Murphy said the issue of the 950 sq. ft. variance on the accessory building size, that is going to have to be something we find out from the neighbors.

Mr. Lamanna said it is a one acre lot.

Mr. Murphy said it is a little lot, no question about that.

Mr. Franklin said he did a little poking around and the minimum lot size in Bainbridge he believes is 3 acres now that you are allowed to work with and the square footage for lot coverage is somewhere around 14,000, he is going to still stay under that 15.9 which he believes he was at 6,777 sq. ft. He said obviously if he had the acreage a lot of this wouldn't be a problem and he didn't know lot coverage existed and being a first time homeowner.

Mr. Lamanna asked if there is anyone here that is interested in this application and would like to make any comments.

Mr. Rob Heiman of 7214 Country Lane testified said he lives to the right of this property and has no objections to what has been done or what is being proposed.

Mr. Lewis said he is not clear on the timeline, you are reducing your lot coverage and then there seems to be part two which would be seeding and repairing or whatever so the first thing he is interested in is the immediate timeline to Bobcat, excavate or whatever you are going to do to bring it into conformity should the board give you a new variance on your lot coverage and he thinks he is in favor of seeing that work done before winter.

Ms. Endres stated that there will no longer be a variance on lot coverage because he would simply be complying with what has already been approved. She said if he brings the property into compliance with the former BZA decision the only variance he needs then is for the size of the accessory building.

Mr. Lewis said got it.

Mr. Lamanna said there is still a timeline to come into compliance for the existing variance.

Ms. Endres said for enforcement purposes she is looking for deadline criteria, she doesn't want to be telling someone to plant grass seed when grass won't grow, she wants to give him reasonable goals.

Mr. Lamanna asked if these areas are covered with grindings or something like that.

Mr. Franklin said yes.

Mr. Lamanna asked if it is possible to move the grindings, you don't have to buy anything to move the grindings.

Mr. Franklin said no way, that is a lot of grindings sir and he doesn't have tractors or skid steers, he doesn't have any of that stuff so he would have to maybe try to pull in a favor or rent one but what he is hoping is a lot of this is going to be sweat equity and he had paid and pulled in a favor to have the equipment that is there to put the driveway where it was so it puts him in a hard spot and again he is not made of money to go out and rent this equipment and for them to pull it and then haul it out, it is time and money, he is just a single guy, 26 years old.

Mr. Lewis said we could do January, February and March on a six month basis.

Mr. Franklin said he doesn't mean to stretch it out so long but he doesn't want to shovel the driveway.

Mr. Lewis said it is going to be wet and mucky, so we are looking at May or June.

Mr. Lamanna said we are already really pushing it to get anything done this year, even if you get in there and do this reasonably quickly you are at the end of October, it is too late to plant grass, it is almost too late to plant grass today.

Mr. Lewis said June 1<sup>st</sup>, next year.

Mr. Lamanna said probably, it would give him plenty of time to get the machinery in there.

Mr. Lewis said and get the materials removed and seeded at an appropriate time of the year.

Mr. Franklin said that was what he was asking because as you said we are in a crunch before it is going to be snowing.

Mr. Gutoskey said there was one other thing too that we asked and he said he cleaned up the stuff and the trailers are not going to be parked in the front and another thing was the roof on the addition is a different color than the rest of the roof.

Mr. Lewis said yes we did have that conversation.

Mr. Franklin said he does have plans in the future obviously he will talk to the board first if this is allowed he would like to maybe put more of a barrier between his house and property and the road, Pine trees, he doesn't know if he needs to come and talk to the board for that.

Mr. Lamanna said not for growing natural things.

Mr. Gutoskey said how about some Pine trees to shield the barn from the road.

Mr. Lamanna said it looks like most of it is behind the house.

Mr. Franklin said if you drive by you actually can't see the barn from this side of the house if you are looking at it, it is off to the left side and added that it is freshly painted and he thinks it looks better than the house personally.

Mr. Lewis asked if we got clarification about the trailers or any of the equipment that was parked there that it is a residential property and it is not a holding pen for activities beyond your personal use.

Mr. Franklin said he understands that, the large trailer there is his, he owns it, the dump trailer he was storing for a friend because it is easier accessing stuff at his place and then he gets to use it of course, they are all parked in the back now, you can't see them from the road. He said obviously the firewood is a mess but in a couple of weeks it is going to be inside his garage and you won't see any of it. He said he owns two pickup trucks and a Jeep and he started parking them in the backyard now, the barn has the truck and Jeep in it and he just has the one he drives now and he used to have that up front because he likes it to look like somebody could be home, this crazy world we live in now, you never know what is going to happen, if they think you are home maybe they won't go busting into his house and steal his stuff and beating up his wiener dog. He said again he has to apologize for this particular picture because it was in the middle of the construction of everything so there is junk everywhere. He said he will do his best to move the driveway material and what he can this year, obviously it doesn't need to be planted right away but at least get a start on it.

Mr. Lamanna said until it freezes up solid you can move the stuff out pretty much anytime.

Mr. Franklin said the only thing he would need to do when we get into the weather season if he can crank a piece of equipment on there, he will have a lot more lot coverage issues because he will tear half of the yard up.

Mr. Lamanna said hopefully you can use the existing driveway area and work yourself back, you should be able to plan that out to stay on the paved area not the grass.

Ms. Endres said start from the back of the property.

Mr. Franklin said he has some stuff in that plan that isn't equipment oriented.

Mr. Murphy said he thinks we want to make sure that whatever addition was made to the barn that it is permitted with Geauga County, that whatever you did in there is up to standards of the code.

Mr. Lamanna said he agrees.

Mr. Franklin said he is not as dumb as he seems, that thing is so over-built it is ridiculous.

Mr. Murphy said that should make it easier then to make that happen.

Mr. Gutoskey asked Mr. Franklin if he understands the use for that will be strictly for storage and not for a dwelling unit or business use.

Mr. Franklin said it would be like living in a barn and he doesn't think that is going to happen, no he does not have a business, it would be for storage.

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

Motion BZA 2017-20 – 7190 Country Lane

Mr. Lamanna moved to grant the applicant a variance for the purposes of allowing a previously built accessory structure of 1,248 sq. ft.

1. A variance from the 300 sq. ft. allowed for a non-conforming lot to 1,248 sq. ft.
2. The previous variance was granted for a 10' rear line setback for the existing accessory structure that was enlarged and that variance will be extended to cover the expanded structure as it has been built.
3. In addition there has previously been a variance with respect to lot coverage granted to allow for 15.9%. The applicant is currently over that amount by somewhere in excess of 800 sq. ft. The applicant has presented a plan to reduce the driveways and other lot coverage down to 6,777 sq. ft.
4. The applicant has agreed to make those changes and this is a condition of granting the variance and the applicant will complete the removal of the driveways and other hard surface and replace them with grass or other natural plantings by June 1, 2018.
5. The applicant also understands that this expanded building cannot be used for dwelling or business purposes.

Based on the following findings of fact:

1. There is a practical difficulty because of the smaller size of this lot.
2. The board does not believe the increase in size is unreasonable for the one acre size of the lot and does not believe that it will adversely affect the character of the neighborhood or the adjacent property owners since none of the adjacent structures are close to this extension.
3. There is ample wooded area between the back of the property line so that the fact there is only a 10' setback will not adversely affect the neighboring properties.

Motion BZA 2017-20 – 7190 Country Lane

4. The applicant will also obtain the appropriate building permits from the county for the structure expansion.

Mr. Murphy seconded the motion.

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

Application 2017-28 by Thomas M. Spilman for property at 8360 Wembley Court

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

Mr. Thomas Spilman was present to represent this application.

Mr. Spilman testified that he purchased a property at 8260 Wembley Court on August 1, 2013. He said he is from Cleveland, his family had left here for 12 years, he moved four times for his company and his company brought him back and the summer of 2013 he may or may not have promised his kids a pool at that time. He said he wanted to acknowledge that he should have been here four months ago and he explained how they got to this point. He said they signed a contract for a pool in February and there are four other pools in their neighborhood, there are three on his block within seven homes. He said the contractor they commissioned with came highly recommended from an associate of his who had used him the previous summer and in the contract was the permitting for the pool and fence but the major mistake he made was putting complete trust in this gentleman who said he was going to be here but it is kind of par for the course that he is not, to execute on the contract. He said it appears he over committed to pools and with a rainy April the date we expected the pool to be in which was promised Memorial Day came and went. He said he should mention that in April they had plans drawn up by a landscape architect that did acknowledge the lot coverage, maybe lot coverage is the wrong word but whatever the rules were to how close to the neighbors and how close to the back lot line he did draw that up within the code that he found so he sent the plans to the contractor who had gone incognito at that point and he knows there were several other people that were working with him who had difficulty in getting in touch with him so the stress of the project as you can imagine went through May and into June and we had a text message, he doesn't have a copy of it. that all permitting was being taken care of and we finally got the equipment dropped off in July and it sat in our driveway for a number of weeks and we began construction in early August. He said Ms. Endres stopped by probably two weeks or so into the pool dig, the pool had been dug and informed me and my family of the status which we had not had any approval from the county so he just took it upon himself to work with Ms. Endres over a number of weeks to do the pool permitting for the fence and the patio and that was when he was made aware of this lot variance issue and then we had the same visit from the homeowners who also had not been approached by the contractor so he submitted the paperwork to the homeowners association.

Mr. Spilman continued by saying they did approve it and their two neighbors were fine and so here we are, so he submitted all of the information and he did bring some visual aids to show the board. He referred to photos and said on the property over here on the top right they are permitted pools and Ms. Endres did indicate to him that while he thinks visually the current lot coverage issues he is having clearly were mitigated at some point by these three pools because of how close they are to the interurban, certainly the setback is not met and we are here and there are the three pools that have been previously permitted, he doesn't have the dates. He said the next slide shows pool #1 so this one clearly an enlarged driveway and round-about, a large pool and what appears to be a basketball court and then another kind of structure and then the next pool, again, a little bigger, the size of the pool and this one wraps all the way out, it looks like it is actually built into the what we call the interurban back here and it does appear to encroach on the side, what the word is for a variance. He said he is only showing them to the board because he wants to show the board relative to the pool that they thought they were getting permitted. He said the third one and the largest one is two houses down from him which seems to basically take up most of the backyard including a rock wall formation and obviously it is a nice large area and then our house. He referred to the next slide, his pool, and said you will see the grass around the pool clearly gives us plenty of space between and he walked it off and it is within the code.

Mr. Murphy said that may be an overlay but they are not the same thing.

Mr. Spilman said he tried to bring it forward and the other issue Ms. Endres pointed out is that he has a path from his front door to his driveway and some pavers from a 2007 build which also is not approved.

Ms. Endres said there is hardscaping that was never approved from the original house, this is something she is always dealing with, landscapers always tell the residents that landscaping doesn't require zoning permits, it is true to the extent that landscaping is only plants but once the landscaping moves into patios and fire pits and sidewalks, fencing, that is lot coverage so she is continually trying to educate the landscapers and homeowners about the lot coverage requirements in Bainbridge.

Mr. Spilman said they worked through this in August and he had begun, the fence, landscapers, a pool and a lot of things dependent on this that were part of the timing. He said the next slide is the pool, it has been built within the specs of the drawing so he guesses he is asking for something in arrears and again he sincerely regrets and he knows that Ms. Endres talked to the contractor directly who had said he would be here and he is not sure what he would have said other than what he said.

Ms. Endres said that the zoning secretary sent a special notice to the pool guy too and he told her he would be here but he is not, she hasn't met him so she doesn't know what he looks like.

Mr. Lamanna said maybe next time we will send him a subpoena.

Mr. Murphy asked if there is a name for the pool company.

Mr. Spilman said it is Perfect Pools and we can get ahold of him but he has got clients really all over the east side that have had an extremely negative experience so you can imagine you are promised something pre Memorial Day and it doesn't get delivered until Labor Day, with a big investment and losing a summer with little kids it is not a fun story to tell.

Mr. Lewis asked if Perfect Pools gave you any other Bainbridge Township pool references.

Mr. Spilman said he did not, Ms. Endres did uncover that there was another pool done by them in the township.

Mr. Lewis asked if he has built in Bainbridge.

Ms. Endres said he built in another location in Bainbridge but the property owner took out that permit and that is the only one he admitted to.

Mr. Spilman said it is more of a one man salesman who hires fortunately what turned out to be very good people to install which for a small business, he works at a commercial bank, it is a tricky business to execute a high level of client service on when you don't have any employees and you have to rely on other contractors especially in a busy season where weather comes in.

Mr. Lewis asked if he had a purchase agreement contract with you (Mr. Spilman).

Mr. Spilman said he had a contract for installation of the pool which included a reimbursement for a certain section of the concrete so everything basically with the pool including the water and written in was the permitting and that all permitting would be taken care of by him. He said he doesn't know if that answers your question.

Mr. Lewis said he wanted to get into the record that the contractor was responsible for it and that was in your contract and he is not here tonight.

Mr. Spilman said he is not here tonight. He said he did the fence permit himself and the landscape permit in partnership with the landscaper, he has been great and the pool permit and he supposes he is formally asking for the variance on his original unapproved, is that right.

Ms. Endres said she believes when the hardscaping went in, she thinks they were actually over lot coverage at that point too.

Mr. DeWater asked about the 10,000 sq. ft. of lot coverage.

Ms. Endres said the 10,000 sq. ft. is not 10,000 sq. ft. additional, that includes everything.

Mr. Gutoskey asked Ms. Endres, in the scheme of things in this development does she feel that all of the lots are at 20% lot coverage or probably not.

Ms. Endres said probably not, a lot of them are probably close.

Mr. Lamanna asked if there are any vacant lots left here.

Mr. Spilman said he thinks there is one on the other side but he is not sure, he can't say for certain.

Mr. Gutoskey said if the whole development was basically approved with 20% there are probably lots that are way below.

Mr. Lewis asked if you talking about re-proportioning the excess.

Mr. Gutoskey said basically.

Mr. Lewis said if another property owner says he is at this percentage and he would like to add more but the guy down the street took my allocation.

Ms. Endres said this is one subdivision they got right, when they went through and platted Wembley, Wembley gave each lot 7,840 sq. ft. of lot coverage per lot.

Mr. Gutoskey asked if that is on a recorded plat.

Ms. Endres said they don't record that, it is on a preliminary plat, that is one of the documents she included in the packet.

Mr. Gutoskey said he wasn't sure if there was anything in their deed restrictions.

Ms. Endres said she talked to Planning Director Dave Dietrich about that and back then they didn't include the zoning data on the recorded plats but there are provisions for having this information on the preliminary plat where they spec out what the lot coverage is, the zoning setbacks are and the house within the required footprint etc. but it is not on the plat that is actually recorded but it is on a plat that is submitted for approval.

Mr. Gutoskey said basically they are a conceptual plan if they came in to the township with that included on it.

Ms. Endres said correct and she has that, she has the original in her office and she can bring it out if the board would like to look at it and she copied a portion of it, it was scanned in and reduced and she knows it is hard to read.

Mr. Lamanna asked if every lot got the same amount or did they do it proportionately.

Ms. Endres said it appears they are all the same regardless of the lot size. She said it is similar to what they did in McFarland, when Mr. Tom Vokas did his. McFarland Ridge, he allocated 7,500 sq. ft. of lot coverage per lot and with no considerations for lot size.

Mr. Gutoskey said those lots are pretty consistently sized.

Ms. Endres said right, the lots going down each side of the street as you pull in off of Savage Road are pretty much the same size.

Mr. Gutoskey said in looking at the plat here it looks like the minimum lot is an acre and the ones on the cul-de-sac are maybe a little bigger, 1.18 acre in that range.

Mr. Lamanna said it is about 30% over.

Mr. Murphy said but they have greenspace and that was permitted under three acre development.

Mr. Gutoskey said it says basically that it averages three acres with the open space but there are other lots that have even more coverage than this.

Mr. Murphy asked how we came up with this 10,104 sq. ft.

Mr. Spilman said Ms. Endres helped him with some of that, he walked it off the best he could to determine that.

Ms. Endres said typically she uses the ReaLink tool to make sure it is reasonably close.

Mr. Murphy said if he is reading this right the 100 sq. ft. patio in the back has a roof over it.

Mr. Spilman said yes.

Ms. Endres said she picked one at random and it is just under 7,000 sq. ft. coverage.

Mr. Lamanna asked if there are actual records available, do each of these lots have a file that shows what the supposed lot coverage is.

Ms. Endres said they should and she can explain why some of this has happened. She said during her research in the 2015 - 2016 timeframe on subdivisions, she was working on development standards for various subdivisions, and during that time she came across the preliminary plats and the hearing when the Woods of Wembley was approved and found that there was actually the preliminary plat that detailed out the lot coverage per lot on it similar to what was done on McFarland Ridge. She said prior to that cluster developments simply were permitted 20% lot coverage for the whole development which basically is impossible for a zoning inspector to administer or for an applicant to comply with the provision forcing him to come up with how much lot coverage is in the subdivision.

Mr. Lamanna said you would have to start with the first one and keep a running total and then you would be telling somebody whoever owned this thing, you might get down to the end and have no lot coverage left.

Ms. Endres said the best she could tell is they didn't factor lot coverage in for cluster developments because it was simply a 20% for the whole subdivision, but McFarland Woods did the lot coverage per lot.

Mr. Lamanna said yes we started doing that once we realized what was happening.

Ms. Endres said and she found that Wembley actually got it right and this is the first application after she found this.

Mr. Murphy asked if this is the Spilman property here.

Ms. Endres said she picked a couple of properties at random.

Mr. Murphy asked Ms. Endres to zoom out and show where the Spilman property is.

Mr. Gutoskey asked if there are any other common areas there that have buildings or hardscapes on them in the development.

Mr. Spilman said there is the Wembley tennis court, Wembley Club.

Mr. Gutoskey said that is separate from the subdivision because we dealt with that when they did the additions with the lot coverage. He said when he does the math the 7,840 sq. ft. on this lot is 16.66%, if you use the 10,104 sq. ft. it is 21.88% so he doesn't know how the 7,840 sq. ft. is 20% and the smallest lots are an acre.

Mr. Murphy asked isn't there greenspace that is part of that.

Mr. Gutoskey said there are 119 acres of greenspace.

Mr. Lamanna said that is different though, the 20% is allowed on the actual lot themselves not counting any of the common areas.

Mr. Gutoskey said right because it says here there would have been 73 acres and 68 lots.

Ms. Endres said what she hears the board is saying is when you apply the math to all of the lots together it would come out to less than 20% lot coverage.

Mr. Gutoskey said yes if you took what they are saying, the acreage and the lots, divided by the number of lots times 20% you get a number.

Mr. Lamanna asked what about the streets and if they are counted.

Ms. Endres said the streets are counted as lot coverage too.

Mr. Gutoskey said that is where it is.

Mr. Lamanna said it is in the pavement of the streets and he bets there is not a lot of spare lot coverage, just looking at those other ones.

Mr. Lewis said there is no total score card of aggregate totals with all of the add-ons that people put in with walkways and all of the other stuff so they may have run out long ago or there may be a ton left.

Mr. Lamanna said there is not a ton left, just looking at some of those pictures.

Mr. Lewis said he is trying to think of the next person in an application, is there really available lot coverage left on the 68 lots.

Mr. Gutoskey said it sounds like a job for the Wembley board, homeowner's association.

Mr. Lamanna said in this case there is at least evidence.

Ms. Endres said in going through the records she found some patios that never got permits and going through aerials she is trying to establish lot coverage amounts for each lot.

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

Mr. Murphy said he finds if a typical cluster development allows 20% coverage we have a development that was put in in Bainbridge zoning after the large lots were established and they basically put in a cluster development of a three acre development and they are all getting along over there and they are not putting up fences and raising roosters like some of our neighbors so he doesn't see this as a horrible thing, they have improved their property and have a nice backyard with a pool.

Mr. Gutoskey said he agrees.

Mr. Murphy said there are other things on so many of these roads here that people have very nice developed landscapes and the rock-scapes and pools and it is a lovely development and he can't see making it an issue to punish him for having done this for a contractor that should know better.

Mr. Gutoskey asked if a letter can be sent to the prosecutor.

Mr. Murphy said that would be a good start.

Ms. Endres said she has a little list on her computer.

Mr. Lamanna said if we could fine them we wouldn't have this problem and what do we do in the future about it.

Mr. Gutoskey said what do we do going forward in Wembley and the other developments too.

Ms. Endres said in Canyon Lakes, they don't have an issue with lot coverage because of the judgment entry but they still have to get permits for patios etc.

Mr. Murphy said the homeowner's association ought to be made more aware of this.

Mr. Gutoskey asked if a letter can be sent to them letting them know based on what was approved and when they start getting people coming through for approvals somebody has to get a handle on what their lot coverage is and it is probably their job to do it before somebody has to come back in when they are out of space and they have to figure out who is over and tell who has to take what out.

Mr. Lewis said an audit has to be done on every lot, as built, as it stands today, kind of a static snapshot.

Mr. Gutoskey said going onto ReaLink is probably close enough.

Mr. Lamanna said even with this document there is probably nothing actually recorded somewhere that is binding on people that says this is how much space that was allocated to you per lot and that is what should be happening, there should be somewhere either as part of the zoning decision that says you have to submit a binding document that says this is the amount allocated to each lot.

Ms. Endres said so people are on notice when they buy the lot.

Mr. Lamanna said so people understand what they are buying, they are actually subject to the zoning and in theory when somebody comes here and says they want a variance we could say tell us how much lot coverage there is and by the way it is not just your lot you have to worry about it is the 68 other lots in your subdivision because that is the way they happen to do it.

Ms. Endres said this particular one, Wembley got it right and McFarland got it right and that is what they should have done day one with all of these cluster developments.

Mr. Lamanna said and made it clear that this is how much lot coverage you have.

Ms. Endres said when the lots were sold the developer should have been advising the buyers of this condition but that didn't happen, so we will get through it.

Mr. DeWater said like was said a lot of landscapers aren't informing their clients.

Ms. Endres said she actually had landscapers argue with her that their clients don't need permits, there is no permit needed for a patio and what she has been doing when she issues a new permit she has been collecting email addresses from the developer, contractor and homeowner and sending them an email just advising them that uncovered patios, sidewalks, fire pits, these hardscape structures do require permits regardless of what the landscaper may say, contact her because those structures do require permits and that seems to be working, the property owners actually seem to be pleased that they are getting some feedback from the township letting them know what the regulations are.

Mr. Lamanna said every time somebody comes and does something when they don't do it you send them a certified letter that says here are the requirements and next time if you catch somebody doing it after they have been notified then you tell them you can take it out and then apply and maybe we will let you put it back in and you will pay for taking it out and pay for putting it back in and then next time you will come and get a permit like you are supposed to after you have been told.

Ms. Endres said the majority of the people she thinks really want to do things the right way, most people do, they just need to know what the regulations are.

Mr. Lamanna said there are difficulties when the homeowner relies on the contractor when the contractor says he is going to get the permits and then the contractor doesn't get the permits. He said he is trying to figure out how we can get a handle on this before we end up at the point where everybody is 20% over on their lot coverage in the entire subdivision and he is not sure that is the direction we want to be going in.

Ms. Endres said she has offered to meet with HOAs and when they have their HOA meetings, she has been to a few of them and she should send out a reminder that when the HOAs have their yearly or bi-yearly meeting she is available to speak, explain and answer questions. She said the preliminary plan does have the street on there.

The board reviewed the lot coverage calculations for the Woods of Wembley subdivision.

Mr. Lewis said the contractor doesn't have very good reviews which is unfortunate and he hopes your pool turned out spectacular.

Mr. Spilman said he found out a little late.

Mr. Lewis said he is sorry and he is hoping it turned out okay.

Mr. Spilman said it did.

Mr. Lewis said it is awkward, what is done is done, the contractor has some serious issues, he agrees with Mr. Murphy and he doesn't feel in his heart to punish the property owner for a misdoing by a contractor that didn't fulfill. He said the upside is that he has done a beautiful job, he has improved his property and he is not even interested in privacy screening or doing anything, it is horribly unfortunate that the contractor misrepresented certain elements of their agreement to this property owner and he just doesn't want to punish or penalize him.

Mr. Lamanna said no more hardscaping, not even a rock, no sheds, no anything. He said we will have to talk about what we do going forward here.

Mr. Lewis said with the universally applied standard to all clusters in developments where we have this to deal with.

Mr. Gutoskey said the only thing is to look back on the code when this was done to see what the open space was based on or the 20% number.

Mr. Lamanna said and put people on notice.

Mr. Lewis said it is really tricky on the lots that are physically under three acres, when you get into the one acre or smaller lots.

Ms. Endres said the zoning commission is supposed to be working on this, she has been asking them for a couple of years now to look at the way cluster zoning lot coverage is handled and it is high on the priority list now.

Mr. Lamanna said he thinks there should be a requirement that says they have to have a legally binding allocation of the lot coverage, if they want to allocate 100% or less than 100% and have some methodology where somebody can allocate the remaining amount.

Mr. Gutoskey said the question is do you notify the different homeowner's associations to do some kind of an accounting for us.

Mr. Lamanna said in some point in time we may need to tell people that you can either do this or we are going to hold everybody to the allocated amount period and don't come in here telling us you have built something, you are notice now, you come in and tell us you built something over that without giving advance approval, you are probably going to be told to remove it.

Ms. Endres said she thinks they are trying to come up with a reasonable allocation lot coverage percentage for the cluster subdivisions as a zoning amendment.

Mr. Lamanna said there probably should be a default that says if you don't allocate then we will take the available and divide it by a number of lots and that is what it is, if you don't do something specific there is a default position but he thinks it would be wise to leave it to the developer to make the allocation because in certain cases there may be reasons you would want to do different allocations because of lot size but if they don't do it there ought to be a default that it goes to. He said then we are just going to do a pro rata number of lots, the amount of lot coverage and everybody gets their share of square feet and if you go to the default position it is going to be keep it simple, we are not doing anything complicated, it is going to be straight up by the numbers.

Ms. Endres said Wembley and McFarland did it.

Mr. Lamanna said the lots are about the same size and there is no reason to have anything different, you assume that people will be putting in the same kind of houses so everybody ought to have the same lot coverage, otherwise if we don't figure out some way to get a handle on it the next thing we know the total lot coverage will be 25% so we need to think about this going forward and maybe tell the homeowner's associations that this is what we are going to do going forward and if you want to go through and create an inventory maybe we will have other considerations but we are going to start holding people to these numbers and not just willy nilly granting the requests for more that comes in.

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

Motion BZA 2017-28 – 8360 Wembley Court

Mr. Lamanna moved to grant the applicant a variance to the lot coverage from 7,840 sq. ft. which is believed to be an allocation to his lot to 10,104 sq. ft. for a variance of 2,264 sq. ft.

Based on the following findings of fact:

1. The reason for granting this variance is this project has already been completed.
2. The homeowner was relying on the contractor to obtain the permit and he did not obtain the permit and for that reason this was not reviewed.
3. The board notes that this is a substantial variance but overall in the development it is not totally unreasonable for the character of the neighborhood.
4. The board does note that since this is such a large variance that no additional lot coverage will be allowed for the applicant and he cannot make any other improvements which would increase the lot coverage beyond that or granted.
5. The board also notes that it does not have at this point in time totals for the entire subdivision and at some point in time if we have that information in a future decision we could come to a different conclusion.
6. This decision should not be considered precedent for any future application in this cluster development with respect to lot coverage.

Mr. Lewis seconded the motion.

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

Application 2017-29 by Dennis & Sherry Williams for property at 7022 Oak Street

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

Mr. Gutoskey recused himself from this application.

Mr. and Mrs. Dennis Williams were present to represent this application.

Mr. Williams testified that this house is at 7022 Oak Street and previously it was a damaged structure that went into foreclosure that was there and he went down there a couple of times a year just to cut the lawn and we owned up the street, originally 7107 Oak Street that they rehabbed and then built 17 years ago 7101 Oak Street so this is the third house on the street. He said they love the property, the lot, but the house had been neglected, the rear of it had fallen in. He said Ms. Endres tried to track the previous owner down for a couple of years or so.

Ms. Endres said she had been getting complaints about the poor condition of the house, it went into foreclosure and the bank couldn't find the property owner to serve papers, the courts couldn't find the property, she looked on social media and all of the surrounding court dockets and of course the Geauga County docket and he couldn't find him either so he was just gone but Mr. Williams found him.

Mr. Lewis said so it went to foreclosure and auction.

Mr. Williams said no, it actually got stalled up and the bank was paying the taxes and basically the bank would pay them and he worked a couple of deals around and cleared up some of the loose items and got the house. He said he has a set of plans, a Craftsman style and the last house on the street that was really in ill repair was the 7057 that came through here last month, Eppich, it was demoed and getting ready to be re-built so these are the last two animals running around the street that need some serious help.

Mr. Lewis said so you are proposing your driveway is on another person's property.

Mr. Williams said the way the property lies there, he is proposing that if he is able to get and this is per Mr. Dave Dietrich, Planning Commission, he had spoken to Ms. Endres and Mr. Dietrich and said what is the most convenient way, the less intrusive way to if we can work up an agreement with the neighbors at some point in time to complete this, he said irrevocable driveway agreement between parties and it basically puts the least amount of burden on anybody up here or anybody in Geauga County and the reason being normally he wouldn't say for any reason at all or even attempt to try and come in across the property but if you look at the lay of the land there the lot coverage where the previous house was existing it was about 3' off of the property line and was askew. He said the window well was about 8" - 10" or maybe a foot off the property line so the house went from roughly 3' to 2' or 1-1/2' with the window well encroaching, however, the way the property sits if you look at the 2' topos where the lot line comes across there is about a 9' drop from the existing parcel that he has to the parcel to the west and you can see from the configuration it is really kind of an outline, you have got Brit Gardiner's property that has a separate little parcel that is 50' by 60', that is kind of on a little peninsula if you look at the topo you will see the lines dropping in 2' increments and if you look at the back of our lot you can see a ravine that heads down over the hill so aesthetically they love that little view there and everything however when you take the existing house and put a garage on a little bit to the back you cover more lot coverage with a longer drive but coming in on the left if he can come up with some kind of deal it would run along the bottom of the topo and then turn directly what would typically be a basement so he would have no more lot coverage or surface area and that is how that little detail came up.

Mr. Murphy asked who is Clark.

Mr. Williams said it is actually in a trust.

Mr. Murphy said the whole driveway is Clark.

Mr. Williams referred to a site plan and said this is Clark coming down here, this is that separate little parcel so yes this would all be Clark.

Mr. Murphy said so you are actually dealing with the same homeowner for these two.

Mr. Lamanna said the two parcels are owned by the same person.

Mr. Williams said yes and one of his ideas was buying part of their parcel but Mr. Dave Dietrich was under the impression that everything would have to be re-platted for the neighborhood but if they could come up with the irrevocable driveway agreement so that is how that came up and then with the size of the house it basically gives him a nice shop and garage underneath and not covering the existing lot with anymore coverage.

Ms. Endres said just to clarify for the purposes of the hearing tonight the site plan is being approved for the driveway as it is already built, this is the site plan we are approving tonight and her understanding is that if Mr. Williams is able to come up with an agreement that works that he would be back.

Mr. Williams said correct.

Ms. Endres said it would be different variances that would be needed to allow for the side entry driveway off of the different property. She said he is not requesting a variance tonight, her understanding is he is in negotiations with the property owner but would like to get the approval to build the house.

Mr. Williams said correct.

Mr. Lamanna asked if the garage is going to be underneath, is that the idea.

Mr. Williams said the idea down the line and currently there will not be a garage, he will be putting knockout panels in the basement to take out at a future date if he can access the side but currently they will use the existing drive and hopefully this will be negotiated and he will come back in front of the board but he would like to put everything on the table if he comes back two months from now.

Mr. Lamanna said there is no separate garage structure at this point.

Mr. Williams said correct.

Ms. Endres said there is not an attached garage or a detached garage.

Mr. Lamanna asked if this is a freestanding deck.

Ms. Endres said that is not part of this either.

Mr. Lamanna asked if it is existing.

Ms. Endres said no, that is a future plan but it is not on the table for tonight.

Mr. Williams said he was just putting everything out there and say it is long term so when he comes back here the board won't say but you were here six months ago. He said it is all part of the grand scheme.

Mr. Lamanna said you have to come back anyway if it is not part of what is in this application.

Mr. Williams said all they are doing is putting it out there so if any questions came up or if he had to do more due diligence on it.

Mr. Lamanna asked if the existing drive is 2' away from the property line.

Mr. Williams said that is probably about right yes.

Ms. Endres said she has it proposed at 1' 4".

Mr. Williams asked the existing drive.

Ms. Endres said she scaled it.

Mr. Lamanna asked how we are with front alignment with the rest of the houses.

Mr. Williams said fairly decent and we went through this last month with the other house, we jump forward and backward up and down the street a little bit, they go from ranch to capes to bungalows and one of them sets way in the back and the bottom one is actually on S. Franklin Street.

Ms. Endres said these topos are off, this ravine area here is actually along the back of the lot line so there is a riparian area that is not actually depicted on ReaLink and added that the Chagrin River Watershed Partners were on site and determined that he is not proposing to build in the riparian area.

Mr. Lamanna said as far as the front yard setback that is going to be consistent.

Ms. Endres said it will be consistent with the rest of the houses and it is not out of character with the rest of the neighborhood.

Mr. Lamanna said the house is certainly a reasonable size and the short side setback is against the rear yards of the other properties on Franklin Street so we are not going to have a house so close you can reach out the windows and shake hands.

Mr. Williams said they've got the clear lots 50' x 60', 50' x 50' and then the front one is another 60' x 50' so the houses on S. Franklin are actually quite a distance away, the house on Oak Street to the east side is actually the closest property by far and the original house was on the west side of the lot and less than 3' and slid it off to 5' and the footprint of the existing foundation is very similar.

Mr. Lamanna asked if there is anybody else here that has any interest in this application.

Ms. Michelle Nelson of 7107 Oak Street testified that she lives at the top of the street and she commends Denny and Sherry for being diligent on getting this disgusting property off of our street. She said she has called numerous times, we have small lots, we are a tightknit community on the street and have a block party every three or four years, we support the people on our street and she is not the only one here tonight to support them and it will be a lot better and commend them on getting this done and knowing about building, they will build a house that is going to look decent on the land they have and to improve her street and her property value which is why she is here today.

Mr. Lamanna said it is a very nice house for the spot in terms of fitting in.

Mr. DeWater said because we all know about the drainage in that area he is glad they consulted with the Watershed Partners in advance.

Mr. Williams said he wanted to get that out of the way and put everything on the table and he thanked Ms. Endres and the Watershed Partners.

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

#### Motion BZA 2017-29 – 7022 Oak Street

Mr. Lamanna moved to grant the applicant the following variances for the purposes of constructing a new dwelling in accordance with the plans that were submitted with the application.

1. A variance from the maximum permitted lot coverage of 10% to 21.65%.
2. A variance from the minimum front yard setback of 100' to 42'.
3. A variance from the minimum east side lot line setback of 50' to 13' 4".
4. A variance from the minimum west side lot line of 50' to 5'.
5. A variance from the minimum rear yard setback lot line to the back porch to 83' 8" versus 90'.
6. A variance to the driveway setback from the east side lot line to 1' 4" versus 2'.

Motion BZA 2017-29 – 7022 Oak Street

Based on the following findings of fact:

1. A practical difficulty exists because it is a pre-existing lot of record.
2. The width is only approximately 50'.
3. The total lot area is approximately .2 acres therefore there would be no way to build on this lot without some variances.
4. The variances that are being granted are consistent with the development in the area and will not adversely affect the character of the neighborhood nor would these setbacks adversely affect the adjacent property owners because generally the setbacks are consistent and the 5' west side lot line setback is actually against the rear lot lines of the adjacent properties which are located on S. Franklin Street.
5. The size of the house being proposed is reasonable in consideration of the lot size and of the character of the neighborhood.

Mr. DeWater seconded the motion.

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

Since there was no further testimony, the public hearing was closed at 8:43 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: October 19, 2017

AUDIO RECORDING ON FILE

Bainbridge Township, Ohio  
Board of Zoning Appeals  
September 28, 2017

The regular meeting of the Bainbridge Township Board of Zoning Appeals was called to order at 8:43 P.M. by Mr. Michael Lamanna, Chairman. Members present were Mr. Ted DeWater; Mr. Joseph Gutoskey; Mr. Todd Lewis and Mr. Mark Murphy. Ms. Karen Endres, Zoning Inspector was present.

Ms. Endres met with the board to discuss the applications for October 19, 2017.

Since there was no further business, the meeting was adjourned at 9:09 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: October 19, 2017