

Bainbridge Township, Ohio
Board of Zoning Appeals
January 16, 2025

Pursuant to notice by publication and ordinary mail, the public hearing was called to order at 7:07 P.M. by Mr. Michael Lamanna, Chair. Members present were Mr. Brent Barr, Alternate; Mr. Ted DeWater; Mr. Joseph Gutoskey; Mr. Todd Lewis and Mr. Emeil Soryal. Ms. Devon Gamble, Alternate was absent. Mr. Steven Averill, Zoning Inspector was present.

Mr. Lamanna welcomed everyone to the regular meeting of the Bainbridge Township Board of Zoning Appeals and explained the public hearing process and stated that individuals will be sworn in when the application is started.

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

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

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

Mr. Gutoskey recused himself for this application.

Mr. Brent Barr, Alternate joined the board for consideration of the following application in Mr. Gutoskey's absence.

Mr. Bill Joyce was present to represent this application.

Mr. Lamanna swore in Mr. Bill Joyce and he let the record reflect that Mr. Joyce was duly sworn.

Mr. Bill Joyce testified that he just purchased a house on S. Franklin Street and Oak Street with the purpose of tearing it down and rebuilding. He said the original house there is circa 1930, it was built with approximately a 20' setback from S. Franklin and an approximate 10' setback from Oak Street and what he proposes to do is put a similar structure back on the property using the same existing setbacks which he no longer needs a variance for both of those setbacks. He said the setback requirements from S. Franklin is 30' and the house is sitting at 20' and he would like to put it back in its location and then the setback on Oak Street is now 30' so it is nonconforming, and he wants to put the house back at 10' so it would be a 20' variance proposed. He said the configuration of the home as you see, the driveway location will be similar to the replacement structure. He said originally when he came to see Mr. Averill in Zoning he thought he would need a variance on Oak Street for the side yard but as he dug into it he found out that it is considered another front yard.

Mr. Lamanna said a corner lot problem.

Mr. Joyce said otherwise his original application didn't even need a variance but once he found that situation he had me come back and apply for the second part of the variance on the Oak Street side.

Mr. Lamanna said so you are saying that the front yard on Franklin Street you are going to actually do 30'.

Mr. Joyce said no 20', and it is existing at 20'.

Mr. Lamanna said so it is going to stay the same as it is.

Mr. Joyce said it is and he does have some photographs here of the other structures as you go north into town and they line up, as a matter of fact there are a couple of structures that are a couple of feet forward of it but the 20' setback was common back in the day. He said it is a good size lot and they thought about do they move the house to avoid the variance but realistically from the front of the house to the front yard, where the arrow is right now, there is a plateau and they are fighting a topography issue because Oak Street rises and from the front of the house to the rear of the garage there is a 12' rise. He said the existing driveway location is the best location for the house because otherwise you would have a downhill driveway from Oak Street and create a lot of problems for the house but right now the way the driveway goes in it is coming nearly flat off of Oak Street so that is actually a great topographical location for it.

Mr. Barr asked if that is part of where they have had the water issues too because you definitely wouldn't want your driveway going down.

Mr. Joyce said exactly and Oak Street does run pretty hard down towards S. Franklin.

Mr. Barr said because there is history of water issues on those two or three streets there between where you are at and the roller rink.

Mr. Joyce said yes, the roller rink street really gets it, this isn't as bad.

Mr. Barr said okay.

Mr. Soryal asked if he is going to have two driveways there.

Mr. Joyce said there is an existing curb cut on S. Franklin that they are going to keep as well and because the owners used the curb cut off S. Franklin.

Mr. DeWater asked if there are storm sewers on S. Franklin, not on Oak.

Mr. Gutoskey said it is like an asphalt ditch and there is a storm sewer out on Franklin that comes down on the side that continues a little bit further south where there is a big culvert that goes under the road, and then there is an inlet at the corner there too.

Mr. DeWater said that big culvert.

Mr. Gutoskey said yes and he got the approved plans from the Chagrin Falls Village engineer.

Mr. DeWater said and all drainage from the house is going to enter into the storm sewer.

Mr. Gutoskey said he would say probably yes. He said another thing too is this is a 60' wide lot and the rest of the lots are like 50' going up but they made the corner lots 60'.

Mr. Soryal said so the front of the house lines up with the other homes on the street.

Mr. Joyce said yes.

Mr. Lamanna said there is no big line of sight there at the corner, there is still plenty of room to see and there is not exactly a lot of traffic on Oak Street, they can look up and down. He asked if anybody had any comments or questions on this application.

Mr. Dennis Williams of Oak Street asked what the comment was about the line of sight.

Mr. Lamanna stated that when you pull up here you will still have plenty of line of sight on Franklin Street, it is not an issue with the house being 20' back is still plenty back so you can easily see up the street so that is not an issue.

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

Motion BZA 2025-1- 16421 Franklin Street

Mr. Lamanna moved to grant the following variances with respect to the applicant's plans to construct a new house in accordance with the plans that have been submitted.

1. A variance from the minimum required front yard setback on Franklin Street from 30' to 20' for a variance of 10'.
2. A variance from the minimum required side yard setback on Oak Street from 30' to 10' for a variance of 20'.

Based on the following findings of fact.

1. A practical difficulty exists with the front yard because this house is a replacement for a dwelling that was previously there that was 20' off the property line so that hasn't changed.
2. Because of the topography of the lot it would be difficult to move the house farther away from Franklin Street because there is a steep rise on the lot at the point where the house would be.

Motion BZA 2025-1- 16421 Franklin Street - Continued

3. All of the other houses along Franklin Street in that block are all approximately the same front yard setback so this would not adversely affect the neighboring houses nor change the character of the neighborhood.
4. Likewise on the Oak Street side the 30' requirement is because it is a corner lot and therefore that side yard is designated to have the same setback as the front yard.
5. Again, in this case, the previous building was on the same order of setback from the road.
6. This is a planned building.
7. Oak Street is a very narrow small street so this is not going to adversely affect the traffic flow on the street.
8. In addition, the width of this lot when you allow the setback on the other side where there is an adjacent building is such that it would be difficult to have a house of reasonable width without granting a variance thus for the practical difficulty.
9. The existing house was there at that setback anyway so it is not going to change the character of the neighborhood or otherwise adversely affect the neighboring properties.

Mr. Lewis seconded the motion.

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

Mr. Gutoskey returned to the meeting.

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

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

Mr. Adam Cox was present to represent this application.

Mr. Lamanna swore in Mr. Adam Cox and he let the record reflect that Mr. Cox was duly sworn.

Mr. Adam Cox testified that the purpose of this variance is he was intending on installing a patio and pool and pergola as part of that patio pool combo in the backyard of the property. He said where the variance comes in there is a development that is kind of through the woods behind our development, the Canyon Lakes Development and they have a 100' setback from their development line which effectively renders unusable space in the backyard, encroaching from that setback. He said here is the lot and these are the topology and riparian setbacks of this property, the only logical place to build the house which is kind of in the back corner of this lot, there are big ravines right in front of the house and there is also a setback from the street and this all goes to a pond on the property and so the 100' setback kind of cuts the back portion of that property by two-thirds of the backyard. He said the only kind of land opportunity is very steep and slopes which you can tell by the contours, everywhere else on the property to make any kind of improvements is in this section right behind the house.

Mr. Steven Averill, Zoning Inspector presented the board with a larger site plan.

Mr. Juergen Weinhofer of 7430 Morning View Court asked if there is a picture.

Mr. Lewis said we have a site plan.

Mr. Steven Averill, Zoning Inspector testified that the setback for the pool and you can see there this is the closest setback to the highest variance in question but he went ahead and gave the board the setbacks for the other structures as well so you can understand the necessity of each structure itself and as you know if you approve that setback for that pool you are pretty much approving the other ones at the same time for the rear, obviously there are side setbacks that are needed as well but approving that one setback will for all intents and purposes you are approving the others as well.

Mr. Lamanna said it is kind of interesting because right behind it the association owns a sliver of land around here, a sliver going back and more around the other side.

Mr. Gutoskey said we have a copy of the plat and how they originally split it.

Mr. Lewis said here is the original plat and he is on subplot 10.

Mr. Gutoskey said his second time on the board, when he first started, it was for when we did the re-split of these two lots and that was in 2012, between sublots 10 and 11 to basically give the house a little more room, they slid it over.

Mr. Lamanna said this was when somebody went to build a house and realized there wasn't enough room on the lot.

Mr. Gutoskey said they ended up sliding the house over to get it away from the one ravine to the north so that is why they re-split the lot but when they re-split it they pushed a little more of the lot into the 100' buffer.

Mr. Lewis said like the pie in the corner.

Mr. Gutoskey said this section right here, they reconfigured it to give them a little more backyard.

Mr. Lewis said on subplot 11 they pushed that lot into the buffer.

Mr. Gutoskey said originally yes, then they tried to build a house on it.

Mr. Lewis asked when they built that house was it in the buffer.

Mr. Gutoskey said no.

Mr. Lewis said although they moved the lot line of the parcel into the buffer it was still not a buildable area as far as the 100' buffer is as a no build zone.

Mr. Gutoskey said he doesn't know why they gave the extra room in the back but it was more if you read the minutes that meeting of 2012 it was to push the house south to pull it away from that ravine that cuts through there. He said it doesn't really have anything to do with it pushing it back or anything from what he can see. He asked Mr. Averill to turn on the aerial of this property because that shows where the house is on the lot next door just under construction and it is actually a little bit forward of where the other house is, subplot 10.

Mr. Juergen Weinhofer asked if he could ask a question.

Mr. Lamanna swore in Mr. Juergen Weinhofer of 7430 Morning View Court and he let the record reflect that Mr. Weinhofer was duly sworn.

Mr. Weinhofer testified that he lives in the house right next to it and saw there is a pool and it looks nice, his only question concerning this is the pool equipment being on the back side, he kept his pool equipment close to the house and he would like this pool equipment closer to the house but he is okay with the pool.

Mr. Soryal asked if that is the only place that pool equipment can go.

Mr. Cox said that was recommended by the landscape architect, he has French doors and that screened-in patio there, he doesn't know if tucking it right in there by their kitchen is.

Mr. Soryal said he doesn't know what the options are, he was just curious. He asked for the pool equipment if there will be a structure that will have all of this equipment in it or is it just open or covered by something.

Mr. Cox said it is on a concrete pad.

Mr. Soryal said so everything just sits out so it is very visible.

Mr. Cox replied yes, it will be behind the landscaping but there are woods all the way through between us and Canyon Lakes.

Mr. Lewis asked if this is going into the buffer on 10.

Mr. Gutoskey replied yes.

Mr. Lewis said well there lies the gotcha.

Mr. Soryal asked how far these homes are away from each other roughly.

Mr. Averill said 280'.

Mr. Soryal asked how much of that are trees.

Mr. Cox showed on the aerial the location of the trees.

Mr. Lewis said let's talk about the history of this development a little bit, some may have not been around at the time this was all done. He said you have about 47 acres and it is zoned R-5A which means every lot in the development has to be five acres and that would be if you cut them up individually as standalones so what they decided to do is because of the topography there it was not conducive to putting in septic so they were able to get sanitary from the county so what they did was, an agreement, and he sat on this along with Mr. Lamanna. He said an agreement was made up on this based on a fairness with economic return that they would be treated as R-3A, three acre parcels and 47 divided by three gave them fifteen lot sites. He said now individual lots did not necessarily have to measure out to three acres because they proposed a cluster development and with cluster developments lots have a minimum size but the allocation of the quantity of lots stays the same and let's say your lot was 2-1/2 acres, the way it got cut up, a half an acre would actually go to common area but it would still count as three acres into 47 acres, 15 lots which would explain why some of the lots are actually less physically than three acres. He said the minute you move into a cluster development in developing that land the requirement is around the perimeter of the entire tract there is a 100' do not build, do not encroach buffer zone and he will read to you right out of the minutes, he meaning Mr. Markowitz, who was the attorney representing the developer referred to the site plan and said "The dark green area will remain treed and the green area will remain heavily vegetated and we will create open space to have a perimeter buffer of open space with no structures within the 100' setback." He said all of this got recorded and in the deed restrictions out in Chardon with the Recorder's Office out there it also does refer back to this agreement. He said at the same time there was a barn in that tract located within the 100', that barn was demolished and removed so there are no structures at any of the Brighton sites in the 100' setback because it is a direct violation and conflict with the 100' setback buffer as required with all cluster developments.

Mr. Lewis continued by saying the lot that is adjacent to you, lot 11, when the lot split occurred between 10 and 11 that one actually got platted partially into the 100' buffer zone, you can see the lot line, but we have confirmed nothing was built in the 100' buffer zone so the dilemma is you would like to do something but you can't go into the 100' buffer zone and that is regardless of what your HOA gave approval on because they would be setting up a direct conflict on the entire basis that Brighton got developed so that is a little bit of background on what is going on there just so you kind of understand some of the parameters that this board has and will have to adhere to and acknowledge and we realize that there may be practical difficulties because of the topography of it but there is a legal position that says the 100' setback buffer area is a no build zone and there are no exceptions within Brighton, which also if an exception was made really opens Pandora's box with all of Brighton and the rest of the homeowners and what they bought into with the understanding of what the rules were for that development. He said it was just kind of a little bit of history just so you kind of understand how Brighton came to be.

Mr. Averill said when you look at this you just want to make sure that it is clear that a conditional use that was approved to establish the lots in this overall development especially 10 and 11 have nothing to do with setbacks so in effect what you are referring to doesn't have anything to do with the variances in Brighton just so you understand that because the setback was approved for the lot.

Mr. Lewis said absolutely so while we can dabble with setbacks and the minimum required and what you are proposing he would say as long as we are not entering the buffer area, the 100' perimeter around it, that is a no play zone.

Mr. Lamanna said you got caught up in a situation where the developer of this property, when he put the development together and got it approved as a cluster essentially created what the law calls "equitable servitude" on your property, you now have a piece of your property that your use is limited and the trouble is these boundaries are part of the cluster process so there is a scheme in the zoning law that says you can have a cluster development but the trade-off of that is you have a higher density but you have to have a buffer around the property so that if you drive by it looks like a lower density area and that is the trade-off. He said in this case it is even worse because it is not only a cluster but it is a cluster in a higher density than the applicable zoning at the time would have allowed so there are more houses in there than should have been in there by just the zoning regulations. He said there were grants for relief for various other reasons but again the cluster idea is you have these developments, they are surrounded by an unbuilt buffer zone and that way it maintains the character of the neighborhood and a more rural character.

Mr. Cox asked if that would apply to any structure and not just a primary home structure or anything that technically encroaches into the buffer, most of his backyard encroaches.

Mr. Lamanna said he thinks a fence is okay.

Mr. Cox asked if certain structures are allowed in the buffer.

Mr. Lamanna said it gets to the definition of a structure, he thinks you could put a driveway in there or a pathway or something like that.

Mr. Averill said you could put a path in there but technically speaking for him to put a driveway around the back of his house along the rear lot, he could not. He said the regulations say dwellings, accessory buildings and structures and we have some setbacks for structures for driveways it is actually a good question because it came up, you are going to hear another variance in the near future for a similar project in the same development and he questioned his driveway and the driveways around throughout the whole development and it says not in the setback, no structures, so we allow a driveway to be 2' from the lot line but if you look at this it is a cluster and it is a different set of rules, it says not within 30' of the lot line and throughout this whole development there are driveways that are closer than 30'.

Mr. Lamanna said that one you scratch your head upon a little bit because that is one of the one's you say why was this in there, it is like an oversight by somebody.

Mr. Averill said it is in the general provisions so people separate that.

Mr. Lamanna said in case you get caught up with all these definitions and somebody introduces a new section like cluster development and unless you spend a lot of time going through and making sure all of your cross references are done you end up with an odd-ball or a funny requirement. He said in this case it is more clear, there is a very clear and well defined reason for that.

Mr. Gutoskey referred to Chapter 135, page 13 (k) and (l) and read the following:

(k) No dwelling unit, accessory building or structure shall be closer than fifty (50) feet to a front lot line or one hundred (100) feet to any perimeter property line of the cluster development.

Mr. Soryal said so you are saying an in-ground pool is considered a structure.

Mr. Gutoskey said and the sidewalk around it.

Mr. Averill said everything that is on that site plan that he is proposing is a structure including the pad that has the pool equipment.

Mr. Soryal asked how about if it is just the pad, is that considered a structure.

Mr. Gutoskey said yes.

Mr. Lewis said it still counts as lot coverage.

Mr. Gutoskey said he had to get a permit for his patio.

Mr. Averill said the only thing that is gray in this at all of all of the accessory buildings is pavilions but that is a whole other topic, it still requires a permit and is still in the setback, it doesn't get into the side requirements.

Mr. Gutoskey asked Mr. Cox if there is a way he can have his landscape architect rework this to get everything outside of that 100' buffer.

Mr. Lewis said change the orientation of it, if you want to reconsider it and re-present.

Mr. Gutoskey said he personally wouldn't have a problem with giving the variances from the 50' of whatever he would need.

Mr. Lewis said as long as we are not in the buffer.

Mr. Gutoskey said as long as he is out of the buffer from the 50' of the property line.

Mr. Lamanna said we have got overlapping.

Mr. Gutoskey said overlapping lines.

Mr. Lamanna said you get the 100' line and then there is also the normal rear yard setback line, the 50' so those two are not the same because of the way the lot is configured so we certainly from that aspect he doesn't think we have a problem with dealing with it, it is getting into the 100' line. He said the problem here is there are really only about four lots.

Mr. Gutoskey said it looks like the lots on the north side of the development have a little bit of the 100' buffer going through it.

Mr. Lamanna said it is hard to tell if that is the way they drew it until you actually see the line.

Mr. Gutoskey said they did the same thing on 14 and 15.

Mr. Lewis asked Mr. Cox if his HOA is made up of residents or is it a management company.

Mr. Cox said it is residents.

Mr. Lewis said it was interesting that the HOA sent a letter approving something when it was definitely a conflict and maybe they were not aware of the buffer requirements and the whole cluster thing.

Mr. Gutoskey said the pool equipment shouldn't be a problem to move and the firepit could be moved in a little different spot, the pavilion is the big one, the pool not so much.

Mr. Lamanna asked if there is a declaration recorded.

Mr. Gutoskey said yes, there are covenants and restrictions.

Mr. Lamanna asked if there is a copy of that floating around.

Mr. Gutoskey said yes.

Mr. Lewis said there was a lot of conversation about that barn being removed from the buffer, they cleaned it up good so there were no exceptions in the buffer.

Mr. Lamanna said a section of the deed restrictions says "Each owner shall comply with Township and other governmental requirements and the requirements imposed by the Township when Reserves at Brighton Park Estates Subdivision was approved."

Mr. Lewis said that sews it together.

Mr. Lamanna said yes.

Mr. Lewis asked Mr. Cox if he wanted to re-work the site plan, it is just a thought.

Mr. Cox said he is significantly invested in this already, yes he will try to but asked what it is he is trying to re-design, is it 50' from the back, is it 100'.

Mr. Gutoskey said it is 100' from the perimeter.

Mr. Lamanna said we don't have a problem with giving you whatever relief there is from the 50'.

Mr. Gutoskey explained to Mr. Cox per the drawing and said the board will give him variances from the property line here of your lot, he referred to the site plan. He said here is that 100' setback line. He said the pool equipment is easy enough that it can be moved by the house, the firepit you can maybe put over there, it would be just how you work the pavilion. He asked if this patio is in right now or is that proposed.

Mr. Cox said it is proposed, the only thing existing is there is a deck and then the walkout basement is underneath the deck and then it significantly starts sloping right around the grade.

The board reviewed the existing site plan and explained to Mr. Cox the setback lines.

Mr. Lamanna said the board could grant just a general variance just don't go into the buffer zone and you can build anything you want so effectively we are giving you a variance to the rear setback along this line to whatever that line is.

Mr. Gutoskey said there weren't any side issues, right, all rear setback variances.

Mr. Averill said no there are sides.

Mr. Gutoskey said that is on the pool deck.

Mr. Averill said right.

The board continued to review the site plan and the setbacks.

Mr. Lamanna asked if it would help if he had some more relief on the side.

Mr. Gutoskey said he would give him whatever he needs on the side. He said the closest is 21.8, the side for the pool deck.

Mr. Lamanna said if we give him some extra side yard setback there then he has more room to play with and we can give him some relief there and part of it can be on the basis that you can't build in the back so what is reasonable to go down to there.

Mr. Averill asked the board if they are contemplating making the variance bigger, greater.

Mr. Lamanna said the side yard variance greater to give him a little more room there.

Mr. Averill said we would have to readvertise that. He said if you are going to give him more of a variance than what we put in here we have to start all over again.

It was noted by the secretary that it was advertised as area variances.

Mr. Lewis said it gives everybody a little wiggle room.

Mr. Lamanna said you have to be pretty careful about being too specific, it can come back and bite you, sometimes inadvertently. He said we are talking about a practical distance of maybe 30' because of where the 100' lies here so we are only talking about this little section in here so we are only talking about from the driveway to the point of where the driveway ends here.

Mr. Gutoskey said he is okay with whatever you want to do on the variances to the rear and side property line and then the designer can get creative and work outside of that 100' line.

Mr. Lewis addressed Mr. Weinhofer and said sir, you were concerned about the pool equipment, were you talking about visibility or noise.

Mr. Weinhofer said both. He said he had a question, he doesn't understand why the pool equipment is not closer to the house, it makes more sense to be closer to the house.

Mr. Lamanna said basically if we hold him to the 100' setback line it pretty much is going to have to be closer to the house because it is not going to be out there.

Mr. Gutoskey said didn't we have one in Canyon Lakes where they ended up not putting the sidewalk on the one side of the pool, they just had it on the street side.

Mr. Lamanna said yes.

The board reviewed the setbacks.

Mr. Lamanna referred to the site plan and said to the applicant, your side setback here would be 15' from here to here, there is your setback line and then it would run along the 100' line to here.

Mr. Cox said that is the box that he needs to figure out how to fit the stuff into.

Mr. Lewis said ask your designer to reorient.

Mr. Lamanna said so basically that would be a variance.

Mr. Averill said he doesn't understand how we are going to do this with the other variances that are required. He said you have for instance a minimum of a 50' rear yard and he is proposing 19'.

Mr. Lamanna said what we are going to do is give him a variance from any rear yard setback along that line.

Mr. Averill said it really doesn't matter because ultimately the numbers all correlate with each other, if you are going to okay this it doesn't matter because he still has to move it away from it that far anyway.

Mr. Lamanna said you've got to move everything to this line.

Mr. Gutoskey said but what we are saying is if he has to shift stuff north or whatever he can work within that.

Mr. Averill said okay so but to his point, if you are going to have him move the pool to this line.

Mr. Gutoskey said it will end up being more than 50'.

Mr. Averill said more than 50', okay, unless he moves this back he is not going to be 50' there but it is going to be a different number than what we have here. He said he needs to know these numbers, he can't just say okay he can go even with the 100' setback he has to know all of this, it all has to be reworked and then in turn we have to oppose that number as a variance.

Mr. Lamanna said if we just ran the variance to make his back setback lines.

Mr. Averill said you don't understand what he is saying, you are going to put the firepit to the 100' line, okay that is fair, so what is that distance going to be from the property line, you are going to allow that but he needs a number he can't just say that it has got to fit this line, he just doesn't know how to do it.

Mr. Lamanna said that gives you a management problem, we need to make it easy for you to manage it. He can say look okay, we are granting you a variance from all rear yard setbacks as long as you are more than 100', whatever variance it requires.

Mr. Averill said okay so if you said that you just basically negate all of your rear setbacks but as long as everything is 100' from the perimeter he is okay with it, then okay you can do that.

Mr. Gutoskey said that is what we are getting at.

Mr. Averill said because you have to eliminate the setbacks that are required so he knows what to apply.

Mr. Lamanna said we are saying his rear setback line will become the 100' line.

Mr. Lewis said either way the applicant is going to have to submit a new site plan to zoning regardless so he will do a final sign off and verification that any of your structures are conforming to the 100' line and at that particular junction, no doubt your architect can lay in some dimensions so we have a drawing with a site plan on file with dimensions on it to satisfy everybody but we could pursue giving a more generic type of approval now.

Mr. Lamanna said we can give the approval but part of the approval just says you have to submit another site plan that complies with what we have given you because he needs that to manage this.

Mr. Averill said he also manages the actual variance requests for the approval so he needs to know what variances are being granted so you are removing the rear setbacks to the property line and applying strictly the 100' setback.

Mr. Lamanna said right, we are granting a variance to allow the 100' setback for that part of the property.

Mr. Gutoskey asked do you want to do a remnant of from whatever along this property line and this property line up to the riparian, this section in here.

Mr. Lamanna said yes.

Mr. Lewis said you have got to define where it is.

Mr. Gutoskey said but this doesn't make any difference because it will be more than, you know what I am saying, it has to be along this line or do you want to say the whole rear line.

Mr. Lamanna said that is what he was thinking the whole rear line here, the whole east line.

Mr. Lewis said he can't build in the riparian anyway.

Mr. Lamanna said he has a variance from the 50' rear yard setback to that line.

Mr. Lewis said and that gives you parameters that the designer can work with, what are my boundaries, make it fit.

Mr. Cox said right on the 100' line.

Mr. Gutoskey said you may be able to do something over in this area here, you may be able to do a little more in here because you are not worried about the setbacks.

Mr. Lewis asked if anybody else has any comments on this application.

Mr. Lamanna said this is not the first time we have run into issues like this. He said these cluster developments are nice things but once certain aspects of them are established it becomes virtually fixed because to change it would require probably getting the trustees to sign off on behalf of the township and probably all of the property owners to change it so unfortunately once certain things are set they are set and are unfortunately set in concrete. He said we are trying the best we can to give all the relief that we have the authority to give but hopefully it will work out for you, it is an unfortunate circumstance sometimes but the problem is nobody goes and looks at their plat.

Mr. Gutoskey said the homeowner's association didn't even look at it.

Mr. Lamanna said they probably didn't realize either.

Mr. Lewis said the HOA should have never approved it.

Mr. Lamanna said just like everything else you can't approve something you don't have the authority to approve but it is not a good thing that the HOA can get in a lot of trouble when they tell them they can do something and somebody goes ahead and does it and then all of the sudden it is like oh you can't do this because there is a restriction that the HOA is really supposed to know about, you can get yourself in hot water so you don't want to be telling people they can do something and then have them do it and find out that it violates deed restrictions and the zoning approval for the property.

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

Motion BZA 2025-2 – 7360 Brighton Court

Mr. Lamanna moved to grant the applicant the following variance in order to construct a pool facility similar to that cons equated in his application with the following understanding.

1. This property has a 100' cluster setback line that comes across the property. Structures are not permitted within this 100' perimeter line however with respect to the separate setback requirements for a 50' rear yard lot line setback the board will grant a variance along the three segments on the east side of the rear lot line of subplot 10A. The setback line will become the actual 100' perimeter line so there will be a variance effectively from that line as calculated from that 100' perimeter line to the actual property line along those three segments.
2. Additionally, the board will grant a variance to the side yard setback requirement on the southerly property line commencing where the 100' perimeter line intersects that southerly property line and proceeding west from that point 30', from the 30' required setback to 20'. *(Secretary's note: Paragraph two of this motion was amended. See minutes dated February 20, 2025.)*

Based on the following findings of fact.

1. There is a practical difficulty that is created by the shape and location of this lot.
2. The fact that part of the actual rear of the lot is very close to the 100' setback line which would restrict use beyond the 100' setback line and the property owner also has a certain area of his property that he is unable to use because of the 100' perimeter setback requirement and this is trying to provide a reasonable amount of area within the restrictions of the 100' setback line that he is able to develop his property with the same considerations applied to the adjustment of the other side yard variance the board just described.
3. These variances will be consistent with the neighborhood character and also will not adversely affect the neighboring properties.
4. The applicant will have to submit a final revised site plan to the zoning inspector for the zoning inspector's review to make sure that it is in conformity with the relief that has been granted by this variance.

Mr. Gutoskey seconded the motion.

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

Since there was no further testimony, the public hearing was closed at 8:22 P.M.

Respectfully submitted,

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

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

Date: February 20, 2025

AUDIO RECORDING ON FILE

Bainbridge Township, Ohio
Board of Zoning Appeals
January 16, 2025

The regular meeting of the Bainbridge Township Board of Zoning Appeals was called to order at 8:22 P.M. by Mr. Michael Lamanna, Chair. Members present were Mr. Brent Barr, Alternate; Mr. Ted DeWater; Mr. Joseph Gutoskey; Mr. Todd Lewis and Mr. Emeil Soryal. Ms. Devon Gamble was absent. Mr. Steven Averill, Zoning Inspector was present.

MINUTES

Mr. Gutoskey moved to adopt the minutes of the December 19, 2024 meeting as written.

Mr. Lewis seconded the motion.

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

ORGANIZATIONAL SESSION

Election of Chair

Mr. Lewis made a motion to appoint Mr. Lamanna as Chair.

Mr. Gutoskey seconded the motion.

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

Election of Vice Chair

Mr. Gutoskey made a motion to appoint Mr. Lewis as Vice Chair.

Mr. DeWater seconded the motion.

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

Sunshine Law

Mr. DeWater made a motion to adopt the Ohio Sunshine Law (ORC).

Mr. Gutoskey seconded the motion.

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

Meeting Schedule

Mr. Soryal made a motion to set the meeting night of the Board of Zoning Appeals on the third Thursday of each month at 7:00 P.M. at the Bainbridge Town Hall; which meetings may be continued from time to time, at the discretion of the board, to such other dates as set at the meeting; and also that the board may schedule additional meetings during the month upon its motion.

Mr. Gutoskey seconded the motion.

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

Zoning Secretary

Mr. Lamanna made a motion to reappoint Linda Zimmerman as secretary to the Board of Zoning Appeals.

Mr. Gutoskey seconded the motion.

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

By-Laws

Mr. Lamanna made a motion to adopt the Bainbridge Township Board of Zoning Appeals By-Laws and Procedures effective January 18, 2007 and amended on January 15, 2009.

Mr. Soryal seconded the motion.

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

Proposed Joint Meeting with the Zoning Commission and Board of Trustees

The board discussed a proposed joint meeting with the Zoning Commission and Board of Trustees.

APPLICATIONS FOR NEXT MONTH

Secretary's note. There were no applications submitted for the February 20, 2025 meeting.

Since there was no further business, the meeting was adjourned at 8:40 P.M.

Respectfully submitted,

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

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

Date: February 20, 2025