

BRATENAHL VILLAGE  
10300 BRIGHTON ROAD  
BRATENAHL, OHIO 44108  
(216) 383-0468

BOARD OF ZONING APPEALS

DECEMBER 13, 2021  
10:00 a.m.

MAYOR JOHN LICASTRO, CHAIR  
KAREN BRACE  
FRED KREINER  
JEFF MOLCHAN

NANCY L. MOLNAR, RPR, CLR

3

1 sworn in by the court reporter.)  
2 MAYOR LICASTRO: Thank you. Your name  
3 for the record, please.

4 MS. KOHOUT: Rebecca Kohout,  
5 K-O-H-O-U-T.

6 MAYOR LICASTRO: The Board has a very  
7 specific scope and purpose and that is to look at  
8 a particular request for a variance. So although  
9 the pool and the design is wonderful, we're  
10 really not here to talk about that. We're here  
11 to talk about the request for a building height  
12 variance on the pool house.

13 So who is here to present for the  
14 homeowner?

15 MS. KOHOUT: I am.

16 MAYOR LICASTRO: If you have  
17 storyboards, if you can bring them up here so we  
18 can see them, that would be great.

19 MS. KOHOUT: I was unsure exactly what  
20 all I needed to bring, so I brought everything.  
21 Obviously I'm not going to present everything  
22 today.

23 Basically, the location, so here's the  
24 existing property and this is the existing pool  
25 and there's just a concrete patio there. So

2

1 MAYOR LICASTRO: Okay. Good morning.  
2 I'm going to call this meeting to order. This is  
3 the meeting of the Board of Zoning Appeals. I'll  
4 ask the Board members to respond by present.

5 Mr. Kreiner?

6 MR. KREINER: Here.

7 MAYOR LICASTRO: Mr. Mulchan?

8 MR. MULCHAN: Here.

9 MAYOR LICASTRO: Ms. Brace?

10 MS. BRACE: Here.

11 MAYOR LICASTRO: And myself. We are  
12 actually down one member. We still have a  
13 quorum, but we could not get an alternate, so the  
14 four members comprise the quorum of the Board.

15 Other Village officials present are Dave  
16 Matty, our Law Director, to my left; Kris  
17 Hopkins, our Planner, to my right; and Mary  
18 Ranney, the Chief Administrator of the Building  
19 Department.

20 This is probably the most judicial of  
21 all meetings the Village has. So if anyone other  
22 than Board members or officials want to speak,  
23 you need to be sworn in. So if you intend to  
24 speak, Ms. Molnar, would you, please.

25 (Whereupon, all potential speakers were

4

1 basically, the new building is going to be  
2 located -- this is probably a better map. So  
3 that's the existing conditions right here  
4 (indicating.) And then the new pool house then  
5 will be located here (indicating.) You can see  
6 where the existing concrete pad was and the  
7 existing pool.

8 And so in putting this here, because the  
9 proximity is so close to the home, I was not -- I  
10 did not originally work on this project. Someone  
11 else did. And so I had the benefit of being able  
12 to read the meetings from the previous ARB  
13 meeting. And their comments were that the  
14 building looked too horizontal in nature when you  
15 compare it to its backdrop, which is this home  
16 here (indicating.)

17 And so just from the rear elevation  
18 here, you have about 30 feet here just from the  
19 grade to the gutter. And on your typical home,  
20 you have maybe about 20. And so it didn't seem  
21 unreasonable that in order for a pool house, that  
22 would be located so closely to the home, for it  
23 to warrant something a little bit taller to look  
24 architecturally correct.

25 But even setting that aside, Kris and I

1 had some good conversation back and forth about  
 2 the definition of that code in the code book.  
 3 And I -- or in the ordinance. And I did not know  
 4 at the time when I first had calculated the  
 10:03:56 5 height that you calculate it differently.  
 6 So to me, just reading out of the code  
 7 when it says the mean height of the roof, from a  
 8 mathematical standpoint, the mean height is an  
 9 average. And when you have two separate and  
 10:04:11 10 distinct roofs, in order to calculate the overall  
 11 mean, you would have to calculate the mean of  
 12 each individual roof. And then you take the  
 13 average of those two together based on their  
 14 proportion or area compared as a percentage to  
 10:04:25 15 another.  
 16 Yes, sir.  
 17 MR. KREINER: Doesn't that fall apart  
 18 when the small structure is very tall and has a  
 19 minimal area of roof? I mean, I don't see how  
 10:04:36 20 you can always fit what the law requires or the  
 21 35/15 requires when you have a really small  
 22 accessory structure, let's say a tower. Do you  
 23 know what I mean?  
 24 In other words, said differently, is  
 10:04:51 25 there support in the law, the reg, to use the  
 Molnar Reporting Services, LLC (440) 340-6161

1 area of the two roofs to reduce the --  
 2 MS. KOHOUT: Many communities actually  
 3 do that. In fact, I calculated it that way  
 4 because other communities that I have worked in,  
 10:05:05 5 actually that's how I was taught to calculate it  
 6 and that's how I calculated it. But that, when  
 7 you take the mathematic -- what I say and I  
 8 suppose others would agree with me is the  
 9 mathematical correct calculation of mean height,  
 10:05:21 10 it's actually only 14 foot 10 and a half. And to  
 11 me, that would be the most easiest and least  
 12 complicated reason to grant it, because from a  
 13 mathematical standpoint, it is correct.  
 14 And I do believe the people that wrote  
 10:05:35 15 the original ordinance were very intelligent and  
 16 very specifically chose specific words for  
 17 specific reasons. I believe if they had meant  
 18 the midpoint from the lowest point to the highest  
 19 point, they would have simply wrote midpoint. I  
 10:05:52 20 believe they wrote the word mean because they  
 21 meant mean, which is average.  
 22 MAYOR LICASTRO: Continue.  
 23 MS. KOHOUT: So anyway, so for that  
 24 reason, but then also just from aesthetically  
 10:06:10 25 speaking, I can't imagine -- we had actually  
 Molnar Reporting Services, LLC (440) 340-6161

1 tried to make it a little shorter and it just  
 2 didn't look right. And I thought even if I were  
 3 to not need to come here, I don't think that we  
 4 would have passed through the ARB. We would have  
 10:06:26 5 ended up going to the ARB and then we would have  
 6 to come back to you again.  
 7 So mostly, I guess, we're just asking  
 8 for this variance in addition to my simple  
 9 reason, because it is mathematically correct, it  
 10:06:44 10 actually doesn't even need one, but setting that  
 11 aside, just because from an aesthetic viewpoint,  
 12 when you're back here and you're looking at the  
 13 pool house in comparison to the home itself, the  
 14 goal is -- the ultimate goal would be when  
 10:07:09 15 somebody were to come to visit, they would not be  
 16 able to tell for certain whether or not that  
 17 structure was built by the original designer.  
 18 And that was really the goal, which just kind of  
 19 demanded a little bit more height.  
 10:07:25 20 MAYOR LICASTRO: Thank you. So I'm  
 21 going to read a letter from the HOA of Newport  
 22 Homes, then I'll ask Ms. Hopkins to offer her  
 23 opinions and then we'll hear from Board members  
 24 and anyone else sworn in. So I received a  
 10:07:47 25 document December 6th, basically saying that the  
 Molnar Reporting Services, LLC (440) 340-6161

1 HOA of Hanna Homes of Newport has approved the  
 2 pool house as submitted, which is a necessary  
 3 step in the process. So that's a matter of  
 4 record. And, of course, everyone within 300 feet  
 10:08:02 5 was notified of this pending meeting as according  
 6 to our ordinances.  
 7 Ms. Hopkins, would you please summarize  
 8 your opinion?  
 9 MS. HOPKINS: Certainly. So for the  
 10:08:11 10 benefit of the Board of Zoning Appeals, this is  
 11 not the first time a drawing of a proposed pool  
 12 house has been submitted to the Village. The  
 13 original application for a proposed pool house  
 14 was submitted in August and heard by the Planning  
 10:08:29 15 Commission on August 25th.  
 16 At that meeting, I wrote a memo for the  
 17 Planning Commission. And at that time the  
 18 proposed pool house did not have the highest  
 19 point at what it is currently. My recommendation  
 10:08:50 20 was approval of the proposed pool house on the  
 21 condition that it was reduced in height by about  
 22 six inches so that it met the definition and the  
 23 maximum height allowance for 15 feet.  
 24 That applicant, the applicant  
 10:09:08 25 resubmitted a drawing in compliance with the  
 Molnar Reporting Services, LLC (440) 340-6161

1 15-foot interpretation at that time on September  
 2 3rd. The drawing was dated September 2nd. Then  
 3 earlier this month, a few weeks ago, I was  
 4 notified that there was a new designer and a new  
 10:09:32 5 application. And the question from Mary was  
 6 whether or not it needed to go to the Planning  
 7 Commission.  
 8 And on review of the plans, I noted that  
 9 this third drawing of the proposed building was  
 10:09:50 10 taller than the initial application. And based  
 11 on my August memo, I instructed Mary that this  
 12 plan would either need to receive a variance from  
 13 the Board of Zoning Appeals to comply with the  
 14 Zoning Code or to be altered in the height so  
 10:10:11 15 that the height came down.  
 16 In my memo to the Board of Zoning  
 17 Appeals, I do note the significance of this  
 18 existing house, that it is a historic structure.  
 19 It is not the typical house in Bratenahl. And it  
 10:10:28 20 far exceeds the minimum requirement for the  
 21 minimum house size in the R-1 District, as well  
 22 as the PRD. It's in a PRD District, as well as  
 23 the RLF District, which has the largest lot size  
 24 requirement and the largest minimum house size.  
 10:10:51 25 So I support the variance request to  
 Molnar Reporting Services, LLC (440) 340-6161

1 allow the proposed building. I do take issue  
 2 with the applicant's claim that the  
 3 interpretation is incorrect. In the thirty some  
 4 years I've been writing zoning codes, I have not  
 10:11:11 5 encountered a different interpretation. And the  
 6 applicant submitted a sample of how to calculate  
 7 the building height as she has done it that comes  
 8 from North Carolina.  
 9 I am not aware of any other entity that  
 10:11:31 10 has done it. And I would say that based on how  
 11 the height of the flat roof is calculated and  
 12 that's to the highest, that if it were really  
 13 about the volume, which I agree is a rational way  
 14 of doing it, then I think the definition of  
 10:11:48 15 height would be a little bit different.  
 16 The other note that I make in my memo is  
 17 that it is a common feature in zoning codes to  
 18 allow for an exception for a chimney or a steeple  
 19 or something, something small. So as I  
 10:12:09 20 characterize it in my memo and impertinence,  
 21 which is more decorative, that sort of thing,  
 22 that that's missing. That sort of exception is  
 23 missing from the Bratenahl Zoning Code. So with  
 24 that, if there are any other questions.  
 10:12:27 25 MAYOR LICASTRO: So the request is for  
 Molnar Reporting Services, LLC (440) 340-6161

1 just a little bit less than two feet, correct?  
 2 MS. HOPKINS: That's correct, which I  
 3 consider to be a minor increase and also in  
 4 keeping with the nature of the building --  
 10:12:38 5 MAYOR LICASTRO: Thank you, Ms. Hopkins.  
 6 MS. HOPKINS: -- the overall house.  
 7 MAYOR LICASTRO: Questions from the  
 8 Board members.  
 9 MR. MULCHAN: So has this final plan  
 10:12:47 10 been approved by the ARB?  
 11 MS. KOHOUT: We actually are meeting  
 12 tomorrow.  
 13 MAYOR LICASTRO: Keep in mind for  
 14 members of the Board, I will, shortly, ask for a  
 10:13:00 15 motion to either approve or deny this request for  
 16 variance. If it, indeed, is approved, it will  
 17 have to go before Council for final acceptance on  
 18 Wednesday of this week.  
 19 So Board members, anything else from  
 10:13:14 20 you?  
 21 MR. KREINER: Do we know that the mean  
 22 height of the roof of the main house?  
 23 MS. KOHOUT: I do know from -- I didn't  
 24 -- I was unable to actually measure it physically  
 10:13:32 25 with a measuring tape or something, but just by  
 Molnar Reporting Services, LLC (440) 340-6161

1 counting the bricks.  
 2 MAYOR LICASTRO: Very long measuring  
 3 tape.  
 4 MS. KOHOUT: So just by counting the  
 10:13:41 5 bricks, this is roughly -- I had, from what I  
 6 could tell, was 29 feet, but I figured the ground  
 7 was raised, it's probably a little lower, so it's  
 8 about 30 feet just to here (indicating.)  
 9 MR. KREINER: To the gutter.  
 10:13:55 10 MS. KOHOUT: And then I'm guessing if  
 11 that's 30, this has to be at least another 10. I  
 12 imagine maybe even 12. I was uncertain. So  
 13 that's the best I could tell from the photographs  
 14 that I have.  
 10:14:09 15 MS. LUCARELLI: For sure it's over 40  
 16 feet.  
 17 MR. KREINER: I guess I ask the question  
 18 because if it's a 35/15 ratio and the mean height  
 19 of the structure is more than 35 feet, then this  
 10:14:24 20 wouldn't even be against the intent of the  
 21 ordinance as written and would be another reason  
 22 to support it, you know, mean versus media side.  
 23 I think in terms of the proportions, it makes  
 24 sense with a structure this big.  
 10:14:40 25 MS. KOHOUT: If I may speak before it's  
 Molnar Reporting Services, LLC (440) 340-6161

1 too late, I apologize. I practiced. I was a  
 2 little nervous coming here. And the very first  
 3 thing that I wanted to do was thank you guys,  
 4 first of all, for holding this last-minute  
 10:14:54 5 meeting. And I really did appreciate that. And  
 6 I was glad that Kris was here. She wrote such an  
 7 eloquent letter on our behalf.  
 8 So it was nice, even though we did not  
 9 agree on how a code was interpreted, I believe we  
 10:15:13 10 had the most amicable agreement that we disagreed  
 11 that I've ever had, which was really nice.  
 12 MAYOR LICASTRO: One concern we have as  
 13 a Board is what we do or recommend could set a  
 14 precedent and create problems elsewhere in the  
 10:15:27 15 Village. This might be one of the most unique  
 16 properties in the Village, the former Hanna home.  
 17 I think the circumstances that surround this pool  
 18 house and the entire property are unique to this  
 19 property and I don't see it causing a problem  
 10:15:40 20 with setting a precedent.  
 21 Anyone else on the Board?  
 22 MR. MULCHAN: Just a question, since  
 23 this hasn't received ARB approval and they're  
 24 likely to embrace it as is, what happens if they  
 10:15:53 25 decide that it needed to be taller than what the  
 Molnar Reporting Services, LLC (440) 340-6161

1 request is today?  
 2 MAYOR LICASTRO: Well, I'm not sure they  
 3 can recommend it be taller. They can perhaps  
 4 recommend it be shorter. ARB made mention of the  
 10:16:05 5 mass of the main house versus the pool house and  
 6 seem to indicate they didn't think the variance  
 7 was an issue for height.  
 8 MR. MULCHAN: So can we leave leeway in  
 9 case there are any other modifications that have  
 10:16:18 10 to be made or will we vote on a motion that is  
 11 strictly for this design?  
 12 MAYOR LICASTRO: So the BZA is narrow in  
 13 focus. We're going to vote on the height  
 14 variance alone. If other issues come out of ARB,  
 10:16:34 15 we'll deal with them accordingly.  
 16 Anyone else on the Board? Kris?  
 17 MS. HOPKINS: I would just like to point  
 18 out there are no maximum size limitations on  
 19 accessory buildings in the Planned Residential  
 10:16:51 20 Development District. That being said, the size  
 21 of this pool house exceeds the minimum required  
 22 for the R-3 and the R-4 Districts, so it's a  
 23 sizeable structure.  
 24 My interpretation of what the  
 10:17:10 25 Architectural Board of Review said was that it's  
 Molnar Reporting Services, LLC (440) 340-6161

1 more horizontal than vertical. They increased  
 2 the size of the roof, the square footage it's  
 3 covering, which also accentuates the need for a  
 4 taller building.  
 10:17:29 5 So in order to maintain the -- if you  
 6 were to approve this variance and the  
 7 Architectural Board of Review considers it still  
 8 too horizontal rather than vertical, one option  
 9 is to reduce the size of the building.  
 10:17:48 10 MR. KREINER: They would not need to  
 11 come back here.  
 12 MS. HOPKINS: They would not need to  
 13 come back here if that were a comment from ARB.  
 14 MAYOR LICASTRO: ARB members are  
 10:17:57 15 cognizant of our code. And I don't think they  
 16 would ever recommend something that was not in  
 17 code. To recommendation that it be higher is not  
 18 likely. But if it does, there's a path we can  
 19 take. We're focusing on the one foot 11 and a  
 10:18:10 20 half inch height variance. That's our voice.  
 21 Anyone else on the Board? All right.  
 22 Do I have a motion to approve the height variance  
 23 as stated, an additional one feet 11 and a half  
 24 inches on the pool house specifically?  
 10:18:31 25 MS. BRACE: So move.  
 Molnar Reporting Services, LLC (440) 340-6161

1 MR. MULCHAN: I'll second.  
 2 MAYOR LICASTRO: Further discussion?  
 3 All in favor of the motion?  
 4 MR. KREINER: Aye.  
 10:18:36 5 MS. BRACE: Aye.  
 6 MR. MULCHAN: Aye.  
 7 MAYOR LICASTRO: Anyone opposed? I vote  
 8 aye as well. The motion carries. That concludes  
 9 our business. Congratulations. Again, this  
 10:18:47 10 recommendation will go before Council. We hope  
 11 to have legislation, if we can, by Wednesday from  
 12 Mr. Matty's office for final approval. Again,  
 13 the ARB meeting is tomorrow night.  
 14 Any comments from the public? Is there  
 10:19:05 15 a motion to adjourn?  
 16 MR. KREINER: Motion to adjourn.  
 17 MAYOR LICASTRO: Is there a second?  
 18 MS. BRACE: Second.  
 19 MAYOR LICASTRO: All in favor of the  
 10:19:13 20 motion.  
 21 Ayes: 4.  
 22 MAYOR LICASTRO: Thank you for coming.  
 23 (Meeting adjourned at 10:19 a.m.)  
 24 ~ ~ ~ ~ ~  
 25  
 Molnar Reporting Services, LLC (440) 340-6161

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

CERTIFICATE

I, Nancy L. Molnar, do hereby certify that as such Reporter I took down in Stenotypy all of the proceedings had in the foregoing transcript; that I have transcribed my said Stenotype notes into typewritten form as appears in the foregoing transcript; that said transcript is the complete form of the proceedings had in said cause and constitutes a true and correct transcript therein.

Nancy L. Molnar

Nancy L. Molnar, Notary Public  
within and for the State of Ohio

My commission expires July 15, 2023.

Molnar Reporting Services, LLC (440) 340-6161