

**Brunswick Hills Township  
Board of Zoning Appeals  
Public Hearing Meeting Minutes  
June 6, 2018**

**PUBLIC HEARING MEETING**

**Call meeting to Order:** Chair Bitto called the Brunswick Hills Township Board of Zoning Appeals Public Hearing Meeting to order at 7:00 p.m.

**A Roll Call of the Board was Executed**

- **Board Members in Attendance:** John Bitto (Chair), Chris Schigel (Vice Chair), Cliff Kersten, Jessica Murphy, Kimberley Hall
- **Alternate Board Members in Attendance:** Daryl Lucien
- **Others in Attendance:** Evelyn Czyz, Zoning Inspector, Trustee Michael Esber, Zoning Liaison

Chair Bitto stated a quorum is present; this meeting has been properly advertised and is being taped for the record. Brunswick Hills Township Board of Zoning Appeals acts within the regulations of Sec. 519 of the Ohio Revised Code.

**Approval of the Minutes: April 4, 2018 Minutes** Chair Bitto asked if there were changes or revisions to the minutes. Mr. Schigel stated on page one under Additional Business it says Wednesday, July 10, 2018 and it should say July 11. Correction made. **Motion to Approve the April 4, 2018 Minutes:** Mr. Kersten made a motion to accept the minutes as submitted by the Secretary with the date correction. Ms. Hall seconds the motion. **Roll Call:** Mr. Kersten-yes; Ms. Hall-yes; Ms. Murphy-abstain; Mr. Schigel-yes; Mr. Bitto yes. Motion carries.

**NEW BUSINESS: Area Variance Request for 2001 Baintree CT, Brunswick Ohio**

1. **Thomas Calton, 5215 Vandalia Ave, Cleveland OH 44144.** Variance request for property address 2001 Baintree Court, Brunswick Hills, Ohio 44212; PP# 001-02D-13-106; Zoning District: R-1. Variance request per zoning Sec. 403-3 Lot Requirements; A. Minimum Lot Area Per Dwelling Unit – Single family dwelling is 15,000 square feet. Property is 11,960 square feet.

**Evelyn Czyz, Zoning Inspector, 1918 Pearl Road, Brunswick, OH 44212 was sworn in.**

**Thomas Calton, 5215 Vandalia Ave, Cleveland OH 44144 was sworn in.** Mr. Calton stated I am here to ask for a variance on one of my parcels located at 2001 Baintree Court because right now the square footage to build a new house is 15,000 square feet on the property and his property comes up to just about 12,000 square feet. Mr. Calton said I am looking to the Board to grant me an area variance for that land so I can build my home. Mr. Calton stated I've been trying to build a house here for the last two years, but the Planning Commission in Medina County now says I need an area variance for the square footage. Mr. Calton stated I already have the variance for the setback. Mr. Calton said Mr. Rob Henwood, Planning Commission said he knows it was probably meant to be all included, but I need to have that done so that's why I'm here. Mr. Calton stated the first time I was here, I didn't realize that the square footage was also something I needed to include or I would have included it the last time. Mr. Calton stated there's been so much in the past two years, but we finally met with the Medina County Planning Commission and they've given me a list of things that I need to do before I can build and this is one of them.

**Questions by the Board**

Mr. Kersten asked how many square feet are you actually asking for? Mr. Calton stated on the paper it shows 11,960 square feet and the minimum square foot is 15,000, but I multiplied it out and it came out to be just a little over 12,000 but it's right around 12,000 square feet so just over 3,000 for the variance on the minimum square foot of the lot. Chair Bitto stated to the Zoning Inspector: the lot the way it sits today isn't anything out of the ordinary for that area, correct? Ms. Czyz (Zoning Inspector) stated that is correct. Ms. Czyz stated

there were many, many lots there that were built on smaller footprints because they went up under the Conservation Development which meant more open space and smaller lots, and the only reason why Mr. Calton is here to ask for this area variance is because of the 15,000 square feet; his lot is 11,960 square feet and therefore because it's been vacant for two years he has to meet that. She stated and that is per the Medina County Planning Commission, but other than that he meets everything else. Chair Bitto asked if there were further questions by the Board. Being none, he asked for further comments or questions to the audience.

**Public Testimony & Evidence**

1. **Paul Wrentmore, 2009 Baintree Court was sworn in.** Mr. Wrentmore, adjacent property owner to applicant, stated he has something that he typed up to read. Mr. Wrentmore read off a three-page document opposing the variance request which was submitted for the record (**Exhibit 1: Opponent Paul Wrentmore**). Mr. Wrentmore stated in the last paragraph of his document – “In closing, I would like to say to the Board that they might grant this second variance and give the applicant their American dream, by destroying my family's American dream even though I never needed any variances and my lot and house meet townships rules”. End of comments.

2. **John Sypniewski, 3083 McCracken Trail was sworn in.** Mr. Sypniewski stated, people it's simple, this lot is not buildable. To build this house on this lot you're going to devalue all of our homes here and that is all I have to say. Mr. Kersten asked Mr. Sypniewski how is Mr. Calton building a home on his lot going to devalue the homes? Mr. Sypniewski stated it won't be comparable to other homes in the development. Mr. Kersten stated ok but he is not in the Homeowner's Association am I right? Mr. Sypniewski stated he should be and said he is going to use our development, he's getting the lighting we paid for and he's getting it for free. Mr. Kersten stated I asked if the man in the Association, please answer it. Mr. Sypniewski stated no. Mr. Kersten said thank you. Mr. Sypniewski asked any other questions for me? Mr. Kersten said no.

3. **Mark Mucha, 2010 Baintree Court was sworn in.** Mr. Mucha said just as elected officials I'm asking you to take this seriously and look at the residents of the Township and do what's best rather than for one particular situation. He said I don't believe it's a good idea. He said he was not going to get into all the technical aspects, but asked the Zoning Inspector if she has a list of the properties that did not meet, according to your records, and how did you get that information. Ms. Czyz stated you are welcome to look at the map and the size of the lots are on the map, so you would have to do the calculations as to every single parcel in there. Ms. Czyz stated I don't have a list but my list would be based on the size of the lots and the plats; the phases. Mr. Mucha stated I can't stress enough that you have to look at the whole picture. Ms. Czyz stated to continue to answer your question, all of the lots were not 15,000 square feet; some of them were built smaller; some were built larger but it was to preserve some of that open space. Ms. Czyz stated the Planning Commission was the one that filed this and they filed it incorrectly. Ms. Czyz stated the label was incorrect, per them. She stated when our Trustees at that time signed it, it was labeled “Future Development”; the Inspector at that time looked at it and said the plat meets what was said for the Trustees to sign and the Trustees signed it.

Mr. Mucha stated we had purchased in 2003 as one of the first homeowners on our street and the property next to me and across the street were always called a dump (double?) strip (inaudible) for future development based on if it met certain needs. Mr. Mucha stated he spoke to the County Engineers regarding the property next to him and they said don't worry you can't build on it because you have to get these particular variances. He said I understand there was one variance already granted and let's not just rubber stamp. Ms. Czyz stated and you do know that the lot next to you is a buildable lot. Mr. Mucha stated that is what was communicated and I'm telling the truth what was communicated to me by the Engineers when I decided whether I was going to make a decision to purchase that property next to me.

Ms. Murphy stated everyone keeps saying it's going to destroy the neighborhood. She stated it is going to be a new house, and I'm asking you (Mr. Mucha) what do you think it's going to do to the property value of your home to have a new house put on that property. She asked, how much money do you think you are going to lose as I'm not getting that. Mr. Mucha said well I think when you look at properties I think you look at similar properties in the area that have sold and so forth and typically you would want a house that's

comparable to increase your value. He said you wouldn't want something that is smaller, but additionally I feel as again living in Brunswick Hills Township, living within the community of Southpointe that we're bound by certain things but yet a lot next to me which is not what we're talking about or the lot across the street because of what we're discussing tonight can simply just go in and pretty much disregard what has been. I've been in the house 14 years and I feel like there is a lot of different issues. He said obviously the lot size but also it is not right for them not to be included, but you would want a comparable house.

Mr. Kersten asked, not included in what? Mr. Mucha said the HOA. Ms. Czyz stated that is not his fault. Mr. Bitto stated that does not play into this conversation at all. Mr. Kersten stated that doesn't even matter. Mr. Bitto stated what we are looking at is him building a home on a zoned piece of land. He's having to go through the zoning request to get the same benefit that other lots have with homes on them in that development. Mr. Bitto stated he is basically asking for the same thing that's in that development today. Mr. Mucha stated but it's not the same if we are looking at something smaller. Ms. Czyz stated you are welcome to go on the Medina County Auditor's website and look at the map and get your dimensions on the lots. Mr. Bitto stated the fact of the matter is, lots were developed in that development that are no different than his.

Mr. Mucha asked what changed then? Why weren't they developed back then? They weren't big enough? Mr. Bitto stated he can't argue that one way or another; he's looking at black and white; square footage, setbacks, everything. Mr. Bitto stated there has been nothing that's been said that's contradictory to it. Mr. Mucha said going back to Ms. Murphy question, it's not going to fit, the aesthetics of the property is not going to be the same as everybody else's existing homes. Mr. Kersten stated you have to leave the HOA out of this, whatever yours is it is. Mr. Kersten stated this is Brunswick Hills Township and he's got a lot, no matter where it is at, it has nothing to do with the HOA. Mr. Kersten stated he doesn't belong to your HOA. Mr. Mucha stated absolutely not, I'm just asking you to consider the factors and to consider the residents who are speaking that are concerned.

4. **Karl Dittebrand, 3129 McCracken Trail was sworn in.** Mr. Dittebrand stated he greatly appreciates the Trustees of this Zoning Board and we as homeowners trusted you. He said he really respects what Mr. Calton has gone through during this whole process, but he agrees with some of the other people. He said first of all when we first bought the property we did not zone that property nor did we go through the Medina County Planning Commission when we bought that property; someone guaranteed us that property as each one of us purchased that property. He stated so at some time, and it looks like in 2007 somebody made changes and the law came into effect for 15,000 square feet, per the information Trustee Esber sent me. Mr. Dittebrand said that's my opinion and wondered why we would grant the variance based on the rules we said in 2007. Mr. Dittebrand stated he realizes that there may have been other people that have done this, but we bought our land and property and we bought into the SouthPointe Development because somebody said nothing is going to happen. He said we signed paperwork and said we trust you as Trustees to make the right decisions. Mr. Kersten stated, one correction, we are not Trustees. Mr. Esber sitting over there is a Trustee of the village (Township), we are just Board members of the BZA. Mr. Dittebrand said we trust you to make the proper decisions.

Mr. Dittebrand said to the applicant, I would strongly advise you that if they grant this variance to you that you would join the Homeowner's Association. He said we walk our dogs, we walk our children, they ride bikes. He said we have a small lake or pond, we put park benches up and we pay for that. Mr. Dittebrand said I sure wouldn't want it to be in the end that everybody is hating you. Mr. Calton responded, it's too late. Mr. Dittebrand stated we're your neighbors, whether they grant it or whether they don't grant it, we will be your neighbors. He said when we had building done through our development, it was done by a developer and they came through and they were messy; they were dirty and asked the consideration from the Board if they grant this they be very clean because they are an established community. Chair Bitto asked if there are any other comments or concerns. Mr. Kersten stated let the record show that Board members are not Trustees for the Township. Ms. Hall stated and not only that, I believe at one point we were referred to as the Zoning Board which we are not; we are the Board of Zoning Appeals.

Mr. Bitto asked Trustee Esber if the contractors doing construction in the developments in the Township are responsible for the road maintenance and clean up. Trustee Esber stated yes. Mr. Bitto stated that is more of a County thing than it is a Township thing, but we can get involved. Mr. Bitto asked and if there is mud on the road? Trustee Esber stated they are supposed to clean that up.

**Trustee Michael Esber** stated he has lived in a Brunswick Hills Township for over 20 years and in his development each person had to get their own builder so we have 24 homes and 24 different homes. Mr. Esber stated there is not one home in our development that is identical; there is nothing that matches anything else. Mr. Esber stated there has not been a problem with anyone in our development selling their home for a very fair price. Mr. Esber stated he is listening to all of this about it's going to devalue my property. He said he knew there were people in his development that weren't happy when one lady built a ranch that was smaller than a lot of the homes, but it hasn't affected any of the values of our homes. Mr. Esber stated your square footage, lot size, and everything else is what determines the price and value of your home. Trustee Esber said he didn't believe that Tom Calton is looking to put a shack up on that property. Mr. Esber stated and he may well join your HOA, so as a neighbor you may want to talk to him about and treat him as a neighbor and he may end up being a part of your development and being a good contributor to it.

**Mark Mucha** asked Mr. Calton if you have to extend the main waterline, is it on my property? Mr. Calton stated the waterline isn't, the sanitary sewer line is. Mr. Mucha said ok so the sewer, so how do they go about that because I have existing trees. Mr. Mucha stated I know it's a tree lawn, but they're established trees so how do they go about extending that? **Mr. Tom Calton** stated he's walked it multiple times and from where the sewer is which is on your tree lawn, which is like an easement for it, there is a five-foot stub off of that where your sewer is. He said so five foot from there and then the rest is just grass, so it would have to be dug up, get the sanitary sewer done, and relay the grass. Mr. Calton was asked it would be five feet toward the farm or five feet toward the street. Mr. Calton stated its five feet toward the farm, so that's where he would have to tie into. Mr. Calton stated he was told that he could tie into that manhole cover, but now they are saying he has to extend it down his property. Mr. Mucha said, but you are saying down through my tree line. Mr. Calton stated through the easement, yes. Mr. Calton stated it will be on the tree line. Mr. Mucha expressed his concern that the trees are going to be lost. Mr. Calton stated he didn't see a tree there so he would have to look and said it's not going towards the street it's going towards the stub. Mr. Calton stated the waterline stops at the edge of my property line on our side and that's going to need to get extended down in front of my property. He said the storm sewer is already extended all the way down to the farm and he would have to extend the sanitary sewer 20 feet or 30 feet because it stops half way. Mr. Bitto stated you are not going to get a choice in that; you're going to do whatever they tell you to do to be able to do it per the Sanitary Engineer. Mr. Calton stated all the power and everything is already on the property.

Mr. Calton stated he's listened to all of the comments and he gets it. He said maybe when you were there you were told this land was never buildable, but it's just like the Medina County Planning Commission said to me, if it's not on the deed or it's not in writing, it doesn't exist. Mr. Calton stated he bought the property as buildable lots and the fact is he's not going to build a small ranch. He said it's probably going to be over 2700 to 3000 square foot bi-level. Mr. Kersten asked, when you bought this property were you under the opinion it was all buildable and ready to build? Mr. Calton stated yes because what happened was the real estate agent and the owner said both lots were buildable lots. He said he has 1.4 acres, which is more land than any house in the development. Mr. Calton stated the Planning Commission is very clear that this land was never meant to be built as part of Meadows of SouthPointe, so it's on its own. Mr. Calton stated so when we bought it, it was buildable lots and technically he should be allowed to build. He said originally he wanted to build on the back parcel and combine both lots, but the Planning Commission stopped him. He said he found out they allowed another development in Blue Heron to take two open space lots that were platted as open space blocks and turned them into five buildable lots. Mr. Calton stated so technically they said you have a right to re-plat your land and build, and that is all he'd like to do.

Mr. Schigel stated the character of the neighborhood from driving through looked like there was decent spacing between the houses and asked Mr. Calton if he knew what the spacing is going to be? Mr. Calton stated it is still going to be 10 foot off the property line. He said it's going to be spaced the same amount and

it still has to be 50 feet off the front of the street. He said where Paul's (Wrentmore) garage starts is probably where my garage will start; but it won't be in front. Mr. Calton stated he might go back further. Mr. Bitto stated well yours is unique because you could go pretty much all the way back and still have a back yard.

Ms. Murphy asked the Zoning Inspector if the lot next to Mark Mucha's is a buildable lot too? Ms. Czyz stated yes it is; it's marked as future development. Ms. Murphy asked how big is that lot? Mr. Calton thought it was a little wider but shorter. Ms. Czyz went to her office to pull the lot dimensions and stated that lot is a total of 13,018 feet, so it is shorter than what we require now which is 15,000 square feet. She said so they would also have to come in for an area variance. Ms. Murphy stated thank you. Mr. Lucien (BZA alternate) asked if that lot is outside of the HOA? Ms. Czyz stated I don't know that. Mr. Calton stated it's the same thing; they were foreclosed on in 2011 and those three properties, my two and the one across the street were always privately held and they were never turned over to the HOA; they never owned it. Mr. Calton stated the developer owned it; Meadows of Southpointe LTD is who owned the property so it was always privately held. Ms. Murphy stated so that property wouldn't be part of the HOA either. Mr. Calton stated correct. Ms. Murphy stated so if someone were to buy it, they wouldn't be part of the HOA either. Ms. Czyz stated someone has purchased it; it is a privately owned piece of property.

**Public Testimony & Evidence Continued**

5. **Anita Wrentmore, 2009 Baintree Court was sworn in.** Ms. Wrentmore asked what are the requirements for a buildable lot? Ms. Czyz stated the lot frontage has to be 65 feet; the building setback line has to be 90 feet; front yard depth has to be 50 feet from where your property begins to where you can build your home; the lot size has to be at least 15,000 square feet. Ms. Czyz stated, however, if the lot was platted before and it remains vacant for more than two years, it has to go to the current zoning and the current zoning states at the 15,000 square feet. Ms. Czyz stated anything prior to two years, they can build. Mr. Bitto stated so in effect that lot two years ago, we wouldn't be here. Ms. Czyz stated in 2007 if it hadn't changed or if they would have built within two years of that development being built out; and sometimes it does take two to three years, they could have built it on that lot.

Ms. Wrentmore stated so when the realtor put it up for sale, were the standards still there for 15,000 square feet? Ms. Czyz stated did not know when they put it up for sale. Ms. Wrentmore said it says buildable lot, but if it's not meeting the three factors for a buildable lot, how can they consider it buildable? Ms. Czyz stated they have to go through me. Ms. Wrentmore stated I understand, but to build that house he has to have two variances, for the setback and for the square footage, so why wouldn't the builder build a house on that if he could get a variance too? She said if it was buildable, why does he have to get variances? Mr. Bitto stated he believed it was misrepresented by the real estate. Ms. Wrentmore stated so it's not our fault. Ms. Czyz stated, absolutely, nor is it ours. Mr. Lucien stated actually no one in this room is at fault. Ms. Wrentmore directed her comment to Mr. Calton and asked so when you bought it, did you know that? Did you know that the setback wasn't correct or the 15,000 square feet? Mr. Calton said no because he was told that he would be able to combine those two lots. Ms. Wrentmore asked, by who? Mr. Calton stated by Zoning, because both of them are future development and he doesn't believe that Ron Henwood (Medina County Planning Commission) should be able to stop him. Mr. Calton stated he was told it was a simple process and the fact that he is not part of the Homeowner's Association that technically he shouldn't even have to go through the Planning Commission. Mr. Calton stated it's no different than the farmer who just wants to replat his land; he can replat his land and he can build a house and it doesn't matter. Mr. Calton stated again that both lots were future development. Ms. Wrentmore stated, but it was contingent on the farm selling is what she was told. Mr. Calton stated well yes that was told to me too and said the realtor held on to those because he was going to buy Fuller farm property and they would build. Mr. Calton stated when Medina County stopped me from combining my private property, which they legally can't but that's another battle for me, they should have never been able to do that. Mr. Calton stated he had no other option but to come to get variances.

Ms. Wrentmore stated I'm just looking out for my family as well and when you say it's not going to affect our property value, you don't know that, I don't that, but come somewhere down the line we are going to have to put up a fence, possibly, put up trees and that's an expense and inconvenience for me and my family. Ms. Wrentmore stated this is going to be 10 feet off our property line and it's going to be a big beautiful

house, but it's going to be all house in the front. Mr. Calton stated the whole development is 10 feet off the property line, that's what the requirements are. Ms. Wrentmore stated when she looks at the houses and the way they are situated there is space between them. Mr. Calton stated it is going to be 20 feet. Ms. Czyz stated it is going to be 10 feet from your side and 10 feet from his, so it will be 20 feet. Ms. Czyz confirmed there will be 20 feet between the two of you. Ms. Wrentmore stated it is a concern because you all say it is a buildable lot but it is only buildable if you change the rules and that's what is happening. Ms. Czyz stated but the Medina County Planning Commission are the ones who are not abiding by what the rules were. Ms. Czyz stated they are the ones who filed it, and all of their submissions states on the plats that it is for future development. Ms. Czyz stated now they are saying it was a mistake; but it was their mistake. Ms. Wrentmore stated people make mistakes. Ms. Czyz disagreed and said they had the Trustees sign off on a plat so it was the Planning Commission's mistake because that is the way it was platted. Ms. Czyz said on all the plats it states for future development. Ms. Wrentmore stated it said open space. Ms. Czyz stated and it is open space but for future development.

Ms. Wrentmore asked the Board, before we came here did you have an open mind; were you going to listen to us to weigh in on your decision? She said because the last time we came here, I specifically heard a gentleman say out loud to Evelyn when she asked if he wanted to see the plans and he said he's already seen them and already knows how he's voting. Ms. Wrentmore asked, so do we count at all? Ms. Murphy stated she went to that property three times and she was at this meeting when Mark (Mucha) asked us if we just look at a piece of paper, or do we actually go there. Ms. Murphy she actually felt a little insulted by that because she goes to the property to look at it, but if someone says they didn't see it, it doesn't mean they don't have an open mind because we did sit and listen to everyone. Ms. Wrentmore stated that is not what I said, we asked if you saw the paperwork, the plans, and he said I've already seen it and I know how I'm going to vote. Ms. Wrentmore stated he said he wasn't there but he looked at the plans. Mr. Lucien stated I'm the one that said that. Ms. Wrentmore stated and you said you already made your decision before. Mr. Lucien stated exactly. Ms. Wrentmore asked, aren't you supposed to be partial? Mr. Lucien said, wait a minute, I'm supposed to deal with what's real; black and white on paper, that's what I deal with. Ms. Wrentmore stated ok, what's real? She said tell me, does that lot meet the requirement unless the rules are bent, yes or no. Mr. Lucien stated I am not sitting on the Board right now so I can't answer that. Ms. Wrentmore said ok last time you were on the Board. Mr. Lucien stated exactly. Ms. Wrentmore stated and you said out loud you knew what you were going to vote already. Mr. Lucien stated I heard everything that everybody said and I talked to the President of your Homeowner's Association. Ms. Wrentmore stated yes. Mr. Lucien stated don't put words in my mouth. Ms. Wrentmore stated but that is exactly what you said. Mr. Lucien stated that is exactly what I said and I know how I would vote right now, but I'm not sitting on the Board. Ms. Wrentmore stated I just want to make sure you guys are listening to us and understanding where we are coming from.

Ms. Wrentmore stated I'm assuming it's going to affect my property value because I definitely wouldn't have bought that house if I knew that another house was going to be built next us when they told us that it was not a buildable lot. Ms. Wrentmore stated she bought the house because no one was going to build next to them. Mr. Bitto stated, put the shoe on the other foot and listen to the way it was presented to the owner of it. Mr. Bitto stated you're both fighting the same battle. Mr. Bitto stated I'm telling you that there are other lots in that development that are that same size or smaller. Ms. Wrentmore stated when those lots were bought, that 15,000 square feet wasn't in effect; that went into effect in 2007. She said so if those lots were smaller that was before the regulation. Mr. Bitto stated that is the reason the Board of Zoning Appeals is here. Mr. Bitto had to bang the gavel to get control of the audience. Ms. Hall stated we cannot hear anything up here with all the talking. Mr. Kersten stated your question is a valid question and his question is a valid question. Mr. Kersten stated when he did the purchasing, he was presented with a real estate, which we've got copies of, where the real estate said you can build on that lot. Mr. Kersten stated they said we want this amount of money for it and he bought it and now here we are and we have to make a decision, do we grant his variance under the laws and so forth. Mr. Kersten stated it is not his fault and it's not your fault, it's just a bad situation and we have to separate it. Ms. Wrentmore stated all of those houses were built before that law as in effect.

**John Sypniewski** returned to the podium and stated we've been there 17 years; we are original homeowners there. He said when we purchased those lots Ryan Homes was the real estate and don't you think if that was

a buildable lot, Ryan Homes would have put a home there? Ms. Hall and Ms. Murphy stated no. Mr. Sypniewski asked, why not? Ms. Hall stated because we've seen this before. Several Board members confirmed they've seen this before and Mr. Kersten stated we are going from experience. Mr. Sypniewski stated he hopes the Board makes the right decision today.

Mr. Bitto stated, just for the record for the audience, this Township is riddled with lots like that. He said they've been there forever and they are not buildable because of the size of the 2007 ordinances. Mr. Lucien stated he has two on each side of his house exactly like that. Mr. Bitto stated people are building on those lots now; they are asking for variances to sell the lots, to build on the lots. Mr. Bitto stated same situation you have; people on either side have been there 30 or 40 years and never expected it. Mr. Lucien stated some people stop dead in their tracks when they hear they have to do a variance request because they don't know what they don't know. He said real estate people, while they are licensed, certified, trained, experienced, are very much like used car salesmen; you don't know what you don't know as a buyer; it's a fact. Mr. Kersten and Ms. Hall stated there a number of cases of people in the same scenario. Mr. Bitto stated they pop up. Mr. Kersten stated it's not a new thing it's a bad thing that's been going on for a long time. Mr. Bitto stated he just wanted everyone to know that this case is not unique to your subdivision. He said it is in the Township and it's who you are doing justice to and who are you harming. Mr. Bitto stated you can't tell someone they can't build on a lot that you've had forever or you can't sell it as a buildable lot that you've had forever. He said in most cases it's just not right. Mr. Bitto stated this is a little bit different because you have the Homeowners Association fighting the battle for it and he personally can't see the argument with the Homeowners Association other than not wanting a house next to their house. He said that's about the only valid thing I've seen and I wouldn't like it either but you can't stop it either on your own because stuff like that happens.

Mr. Lucien asked Mr. Calton if he was going to join the two lots. Mr. Calton stated I wanted to but Medina Planning Commission wouldn't allow it. Mr. Lucien asked what does your attorney say? Mr. Calton said he thinks that I should have never been stopped as those were always stated future development; it's platted as future development on a legal document and technically and from past experience on what they've done in Medina County, they're treating me differently. Mr. Lucien stated the essence of the question is simple really; if you were to join those two lots, all of these arguments disappear. Mr. Lucien stated I'm surprised you haven't pursued it. Mr. Calton stated I did when I first bought the property I had it platted as one parcel and when I went to go turn it into the Trustees, the Planning Commission Director, Rob Henwood, stopped it. He said he found out later, if they would have signed it, it would have been saying they had given their permission to it. Mr. Calton stated, he is saying that on the preliminary plan it's slated as open space, which it does, but the Medina County Planning Commission is the only one that had that copy. He said nowhere online, nowhere here, nowhere did that preliminary plan exist except in his office. Mr. Calton stated preliminary plans are good for two years, that it. It's to make the legal plat document and they did. Mr. Calton stated the Medina County Planning Commission are the ones that are really causing me all my trouble and said they started it in 2000 before anybody bought the lots there and you know that's just the fact.

**Ms. Wrentmore** returned to the podium and stated to the applicant, you said there were a few things you had to do before you could build. What are those things? Mr. Calton stated the main thing is to get the variance, I have to have construction drawings showing the extension of the street and all of the sanitary sewer and the waterline, and that is the main one, then I have to apply to have it re-platted. Mr. Calton said this is what my lawyer is trying to fight and that is that they are trying to say that I have to turn the back place back into open space because it says that in the preliminary plan. Mr. Calton stated my attorney says I have a legal binding document, I don't have to change it, but that is going to be a fight in the courts. Mr. Calton stated those are the main things so I have to show that and before I get any building permits I have to do the sanitary sewer and the waterline and then I'll be good to go. Mr. Bitto stated the chain of events would be all of the variances from Brunswick Hills and then storm water prevention and sanitary would be next; he said that is your next stop and then it's the building permit.

Ms. Hall asked what is the reason they are saying that the subplot number needs to change? Mr. Calton stated well it even has to change again and said when I first went to combine the lots the map department told me it had to be subplot #79, so I put subplot #79 on it. Mr. Calton stated when I went in to turn in the paperwork there

was already a subplot #79 so then they told me recently when I redid it that it has to be subplot #84, but there is a subplot #84 already. He stated he found that out and it's up toward the front when they did a revise of Phase I, I believe. He said so #84 and I think #85 is there or it might be #83 or #84 which doesn't make sense because it's not sequential and I'm not part of it but I am; its confusing. Ms. Czyz stated Ms. Hall, if I may add to Mr. Calton's comments regarding the renumbering of the sublots, someone at the tax map office is dropping the ball and not looking so see if this number is already taken. Mr. Bitto stated I would assume that they are looking in consecutive order. Ms. Czyz stated obviously they are not because if they would have they would have noticed that there is a #79 and they would have noticed that there is an #84, so someone is dropping the ball there. **End of testimony and evidence.**

**Review of the Duncan Factors for an Area Variance**

**Sec. 1005-1 Area Variances** - Where the appeal or application requests an area variance, that is, a variance involving provisions relating to yard dimensions, setback, height, or similar spatial or dimensional requirements, then the following standards shall be considered and weighed in determining whether the grant of a variance is warranted to afford relief of practical difficulties:

**A. Whether the property in question will yield a reasonable return and whether there can be any beneficial use of the property without the variance.** *Mr. Kersten stated if he doesn't get the variance he can't build; what would he use the property for? Ms. Hall stated open space. Ms. Hall stated reasonable return I'm questionable on; beneficial use without the variance yes. Mr. Kersten stated the beneficial use would be open space but that would be about it. Mr. Bitto stated but not for the land owner. Mr. Kersten agreed; not for the land owner. Ms. Czyz stated correct and you are talking about the benefits for the land owner. Ms. Hall stated oh, to the land owner. Ms. Murphy stated I'm saying no on this. Ms. Hall stated she will retract her statements and change that and say no. Mr. Kersten answered no. Mr. Schigel answered no. Mr. Bitto answered no.*

**B. Whether the variance is substantial.** *All Board members stated yes.*

**C. Whether the essential character of the neighborhood will be substantially altered and whether adjoining properties will suffer interference with their proper future development and rights as a result of the variance.** *Mr. Bitto stated based on other configurations in that area I say no. Ms. Hall stated no. Mr. Schigel stated yes. Ms. Murphy stated no. Mr. Kersten stated no. Ms. Hall stated no. Ms. Hall asked why Mr. Schigel why he answered yes. Mr. Schigel stated because I do believe its going to change around the houses and the visibility around the houses and also in addition the neighbors might have to put up a fence; they might not, but it could substantially alter what they do in the future.*

**D. Whether the variance will adversely affect the delivery of governmental services.** *All Board members stated no.*

**E. Whether the property owner purchased the property with knowledge of the zoning restriction.** *All Board members stated no. Ms. Hall stated and so that we are all clear on that, it was pretty much stated under oath.*

**F. Whether the property owner's predicament can be obviated through some method other than a variance.** *Mr. Kersten stated no. Mr. Schigel stated the only other method would be joining those two lots together, right? Ms. Czyz stated that still is not going to obviate what's happening now though. Mr. Bitto stated correct. Ms. Hall, Ms. Murphy, Mr. Schigel, Mr. Bitto stated no.*

**G. Whether the spirit and intent of this Zoning Resolution will be observed and substantial justice done by granting the variance.** *All Board members stated yes.*

**H. Whether the property in question has unique or exceptional circumstances or conditions that do not generally apply to other properties in the vicinity and within the same district.** *Ms. Hall, Ms. Murphy, Mr. Kersten stated yes. Mr. Bitto stated no. Mr. Schigel stated yes.*

**Guidelines to Appeal a Decision by the Board of Zoning Appeals.**

Mr. Bitto stated any person who is adversely affected by a decision of this Board of Zoning Appeals may appeal to the Court of Common Pleas of Medina County on the grounds that such decision was unreasonable and unlawful. They have 30 days from the day the decision letter is signed to appeal. Mr. Bitto stated that means 30 days after our next Board meeting when we approve these minutes; the clock starts ticking all over again for anybody to file any kind of complaint or argument with Medina County. The next meeting date of Wednesday, July 11, 2018 (due to the July 4<sup>th</sup> holiday) was announced to the audience.

**Motion to Approve the Variance Request for 2001 Baintree Court, Brunswick Hills, Ohio**

Mr. Bitto made a motion to accept the request as presented for the area variance for 2001 Baintree Court for current property size of 11,960 square feet to meet the minimum requirement of 15,000 square feet. Mr. Kersten seconds the motion. **Roll Call:** Mr. Schigel-yes; Ms. Hall-yes; Ms. Murphy-yes; Mr. Kersten-yes; Mr. Bitto-yes. **Motion carries to accept the area variance request as presented.**

**Public Comment:** Chair Bitto asked for additional comments from the audience. No additional public comment.

**New Business:** None

**Additional Business:**

1. **July Application Request:** Secretary Milanko distributed the application request for the July 11, 2018 meeting
2. **Online Minutes:** Ms. Hall stated she would like to move to put our minutes online because the Trustees are putting their minutes online now. **Discussion on the proposed motion:** Chair Bitto asked what channel this has to go through to get it online, does it have to go to the Trustees? Trustee Esber said yes. Mr. Schigel asked if the minutes go online after we approve them. Trustee Esber stated he will present the request at the next Trustee meeting, but they have to be approved before they go online. **Motion:** Ms. Hall moved that this Board begins with tonight's minutes, once approved, that we submit them to be online. Mr. Kersten seconds the motion. **Roll Call:** Ms. Murphy-yes; Mr. Kersten-yes; Mr. Schigel-yes; Mr. Bitto-yes.

**Public Comment:** None

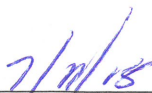
**Announcement of Next Meeting Date:** Wednesday, July 11, 2018 (Due to July 4<sup>th</sup> holiday)

**Motion to Adjourn:** Mr. Schigel made a motion to adjourn the meeting. Ms. Hall seconds the motion. **Roll Call:** All in favor to adjourn. Meeting officially adjourned at 8:25 p.m.

Respectfully Submitted,

Mary Jean Milanko, Zoning Secretary

  
John Bitto, Chair

  
Date

This variance request is not unique to this property. The area is zoned for a R1 residential lot and was platted for future development because it did not meet the lot requirements of the published Brunswick Hills Zoning regulations. The Medina County Planning Commission has admitted mistakes labeling the one parcel as future development when it should of remained open space and the lot next to me should only be buildable when it met all three requirements for a lot. These conditions were all established before the applicant purchased the parcel. So once again this request is not unique to the property because it was slated for future development once it met all three requirements for a residential lot. It is not my fault they did not check with the planning commission and only checked with Evelyn, whom told them she would approve it today (as stated in the Medina Planning Commission notes from January 4, 2017. I do not feel I or the residents that live in the Meadows of Southpoint are being given a fair opportunity to argue against this board or the zoning inspector because of this prior meeting and statement. The State of Ohio is a buyer beware State and they should of done more investigating before their purchase.

This hardship was created by the applicant by his own actions of not doing his homework. He knowingly bought property that was not platted by the county for a residential lot until it met the three requirements of a R1 lot. Now the zoning board already has graciously given them one variance out of the three requirements needed for a R1 lot, which was for the ninety-foot setback. Now they need another variance on the 15000-sq. foot requirement because the Medina Planning Commission is just following the published Brunswick Hills Township Rules. This is nothing more than a continued effort to skirt the established zoning of the area and avoid the requirements everyone else had to follow. Once again, I have verified that every single lot in the Meadows of Southpoint meets all three requirements for an R1 residential lot using The Medina county tax maps. The zoning inspector in the previous August 2017 variance meeting has mislead this Board and gave contrary statements regarding this information during the first variance request.

The granting of this variance will adversely affect me being next door to the property. This will be the only piece of property of over 80 homes in this development, where the lot is smaller than all the others. Additionally the house can be as small as 1200 SQ FT. Every house in the development is over 2200 SQ

FT. This will directly affect the value and resale of my property. The applicant will have a lot that will only meet one requirement of a R1 lot and can put up a small house. The continued effort of working around the established township requirements has caused me much angst and stress in my life, especially since I was told when I bought my house that the lot next door did not meet the requirements for a buildable lot. This was a major factor in deciding to buy my house.

If the board grants this second variance on this parcel it will once again adversely affect the entire community. In addition, they will be the only property that will not belong to the Home Owners Association. Every home in the existing development is bound by HOA Declaration of Covenants, Conditions, Restrictions and Reservation of Easements, which is recorded with the County Recorder's office. These documents restrict what people build, how they want to improve their property, maintenance, and what they can do on their property. This includes everything from siding and roofing to dog kennels or houses. There are also penalties for not maintaining your property, sidewalks, and yard. None of these standards will pertain to the applicant. I am already fighting off all the weeds from the property and looking at a giant woodpile which is not allowed under our HOA rules and conduct. This directly affects my value and keeps costing me money trying to maintain standards I must follow, none of which the applicant will have to follow. This was clearly pointed out and reinforced by the zoning inspector when she was telling me they did not have to cut their grass. Well guess what? I must cut my grass and keep it maintained.

This request will be the second variance request on this property. This is not in the general spirit of the zoning code. These meetings are being used as a subversive tactic to work around the established zoning codes. If this request is granted, they will only be meeting one of the three requirements for a R1 lot. These requests are being used to work around rules that everyone else had to follow. This is not the intent for these board meetings. This is also not in the intent of the original plats. Over 80 homes in the home owners association that meet all the R1 lot requirements. All the homes are facing the same direction and are planned to be minimally invasive to their neighbors and are all similar in size. This house will not be situated like any other property in the development and can be smaller than all the others. Since the lot does not meet all three

requirements, the applicants house will extend into my view in the front yard and extend into view of my backyard. This will be the only house in the development like this.

This variance request is not the minimum requirement to meet relief of this parcel. This is the second variance request on the same parcel. The granted variance request back in August of 2017 for the ninety-foot set-back was the minimal requirement. If this second request is permitted it will be allowing a sixty-seven percent exclusion to the requirements of a R1 residential lot.

The board should deny this request. The applicant is not out of options. I know of several homeowners and myself who have expressed interest in purchasing the parcels.

In closing, I would like to say to the board that they might grant this second variance and give the applicant their American dream, by destroying my families American dream even though I never needed any variances and my lot and house meet townships rules.