MAYOR LICASTRO: Okay. It's 5:30. I'm going to call the Bratenahl Board of Zoning Appeals to order. And note members present as in Ms. Brace, Mr. Kreiner, Mr. Molchan and Mr. Benjamin. And to my left we have our Law Director Dave Matty and Kris Hopkins as well. I'll remind everyone this is our most formal quasi judicial process the Village has.

As a preface to this meeting, notice was sent out to all neighbors within 300 feet of the project to see if there's any input they have to add. As far as I'm told, I don't think we have anything from neighbors, do we, Ms. Ranney?

MS. RANNEY: No.

MAYOR LICASTRO: Ms. Ranney, our Building Department Administrator, is here and Scott Packard, our Building Commissioner.

Welcome.

There are two items on the agenda. The first is a request for a variance for a driveway expansion for 10319 Burton Avenue. Mr. Gawry is here.

So sir, why don't you give us a brief overview of your project and request and we'll take it from there.

MR. GAWRY: First off, thank you for taking the time to review this for me. I submitted some pictures. I hope they were very clear as to the situation that's in there right now. The driveway itself is approximately nine-feet wide. And with the car in the driveway, that leaves you about a foot on each side of the car to step on the pavement.

And the situation on the east side of my driveway is there is -- at the front part of the driveway, there's a section about three-feet wide by 40-some feet long that's a planter area that's on that side of the driveway and it's adjacent to my neighbor's brick wall. A little farther up towards the back of the driveway, a planter area is again there and it widens to about four feet.

So again, when you step out of the car in the lower part of the driveway, you've got a foot of concrete to step onto. It's inconvenient even in the summertime, but in the wintertime when the drive's plowed, you know -- now, the driveway does widen next to the house and goes all the way to the brick wall. So that's where I usually park. It gives me enough room to move my car over and get out of the car comfortably.

Even with the car there, when I try to bring my garbage cans from the back of the drive out to the front, I have to squeeze it through, you know, sometimes even with the car over, but at any rate, it would just be a much more usable driveway, more convenient all the way around if I would be allowed to fill those planter areas in with concrete. So that's my request.

MAYOR LICASTRO: So you really want the driveway to abut the existing wall, correct?

MR. GAWRY: Correct. And that wall is 6-feet high easily.

MAYOR LICASTRO: So Ms. Hopkins, why don't you give us your synopsis of the memo you've created and then we'll turn it over to questions from the Board members, please.

MS. HOPKINS: Certainly. Thank you.

The zoning code, there is a section, it's actually in the subdivision regulations that we set. Driveways are required a minimum setback of three feet from the lot line or not less than three feet from another driveway.

I would like to point out one thing that's not in the memo is that this property is in the R-4 District. It's the smallest district.
1  It has a minimum lot width of 40 feet. And then
2  all of the lot sizes go up from there in lot
3  widths up to 200 feet in the RLF. So the
4  three-foot setback applies to all the districts.
5  So one hardship on this property is that
6  that three feet out of 40 or 43-wide lot is a
7  high percentage. The second thing is the wall
8  and the purpose for the setback. So one
9  rationale for the setback is so that if somebody
10  goes in and out, exits a car that they're not
11  stepping on the neighbor's property. The wall in
12  effect is keeping that from occurring. And the
13  wall is actually, as was pointed out, is the
14  neighbor's wall right on or near the lot line.
15  So the effect of this is that the
16  purpose for the setback isn't really being
17  achieved. And then the other item is whether or
18  not the code requires a three-foot setback from a
19  lot line or if it's an option either from the lot
20  line or setback from the adjacent driveway. And
21  I believe that's an interpretation the Board of
22  Zoning Appeals can make.
23  And I'd like to point out, also, that
24  the neighbor's driveway is more than 10 feet away
25  from the lot line, so there's separation of at

MAYOR LICASTRO: Thank you, Ms. Hopkins.

Members of the Board.

MR. KREINER: I have a couple questions.

MAYOR LICASTRO: Please.

MR. KREINER: With this "or" in the

ordinance that says three feet from the lot line
12 or three feet from the neighboring driveway, is
13 it reasonable to say that with the wall being
14 there that the second "or" doesn't matter?
15 I mean, is it irrelevant for this
16 particular case?
17 In other words, if we're talking about
18 space between driveways, you know, he's
19 landlocked by the wall, so the driveway is in the
20 neighbor's. I have a thought that we shouldn't
21 consider that "or" as being relevant to this case
22 and that would allow us not to set some new
23 precedent. That's where my head is.

MAYOR LICASTRO: Is that directed to Ms. Hopkins, that question?

MAYOR LICASTRO: It's nice to be able to

MS. HOPKINS: Well, I would say that the

wall not being the responsibility of the

applicants, that the wall can come down at any

time. So whether the wall is there or not, I

don't know if that has any bearing on whether you

choose to say either/or. That would be my

opinion at this moment.

MR. KREINER: Got you. I don't know

that it really matters. I just thought if we

could resolve this without making some precedent

in the future, three feet from the adjoining

driveway as opposed to three feet from the lot

line, then it might leave things as is a little

better for the future, assuming that we've never

set this precedent prior, that the three feet is

measured from the adjacent driveway.

MS. HOPKINS: Well, it has come up in a

planned residential development, but the planned

residential development has the other aspect

where the Planning Commission can approve a site

plan and the location of the driveway and can

take that into consideration.

I have written an opinion based on the

location of a driveway to the lot line. And it

pretty much developed PRD, except for the one

house being proposed.

MR. KREINER: All right.

MAYOR LICASTRO: Does that answer your

question, sir?

MR. KREINER: I think it does. My only

other comment would be that some portion of this

driveway is already as wide as he would like it

to be. And I think that in and of itself, you

know, suggests we should just approve this.

MAYOR LICASTRO: Thank you, sir. Other

members of the Board?

MR. BENJAMIN: That's the only question

I had. And that's how I'd like to interpret it

is that the, you know, the majority of the

driveway is already up against the fence line,

the wall line and it makes sense to move forward.

So again, I don't know if it really

matters if we're setting a precedent or making

that determination, you know, regarding Title V,

1137.08 or not, but with that withholding, I see

the personal hardship and I'm okay with approving

this.

MAYOR LICASTRO: It's nice to be able to

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opinion at this moment.
get out of your car and bring your garbage cans up the driveway without a problem.

Anyone else on the Board?

MR. MOLCHAN: I just have a quick question. So where we're saying it's an either/or, if there's a three-foot setback from the lot line, even if you had two lots with driveways next to each other, they would both have to be three feet away. So I don't understand the "or" part.

MR. MATTY: Well, the code needs to be rewritten.

MR. MOLCHAN: Okay.

MR. BENJAMIN: Or we can do that.

MR. MATTY: To be honest with you, you're interpreting the code as being either/or. The word "either" is not in the code and it should be. It should be either/or. The word "or" is there, but "either" is not. So I think what you're going to have to do is, at least in my interpretation, is tonight you're going to have to rule on practical difficulties from the first three-foot setback from the lot line. There's a discrepancy there and it certainly isn't the applicant's cause or work.

MAYOR LICASTRO: Thank you. Anyone else on the Board? There being no further comment, I'll ask for a motion to approve the request to allow a driveway to be extended three feet and be up against the wall as stated. Again, the practical difficulty is obvious and it's been explained by the resident the difficulties here this evening. And I think that's been explained by the resident the difficulties that he has.

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of the Baumans. They are present here today, Tim
and Laura. Again, notification of this meeting
was sent to everyone within 300 feet. And to the
best of my knowledge, no one has offered an
opinion one way or the on other.
Is that your impression as well?
MR. BAUMAN: Ours? Yes.
MAYOR LICASTRO: Mary, that's yours as
well.
MS. RANNEY: Yes.
MAYOR LICASTRO: So why don't you run us
through the nature of the project and then we'll
get into the particulars.
MS. BAUMAN: So we love our house, but
our house is very petite. The garage actually
has a larger footprint than our house. The
garage is blissfully our barrier between us and
the service department. And the garage is over
100 years old, so it's not going anywhere.
But our house, we want to basically tear
off a very ancient two-story deck and porch,
screened-in porch, and just basically use that
space essentially to put an extra third bedroom
and a second bathroom upstairs and get a nice sun
room and mudroom and everything downstairs,
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making the house much more functional. This will
not be at all visible from the road. And will
allow us a little more green space and a little
more breathing room in the back of our house.
MAYOR LICASTRO: Thank you. We did have
an informal meeting with the Baumans to fully
understand the nature of their project. It has
yet to go to Planning Commission or Architectural
Review Board. There are still steps in the
process that need to be filled.
MS. BAUMAN: Yes.
MAYOR LICASTRO: Of course, as I
mentioned, if there's a recommendation from this
Board regarding the variance, it has to go to
council as mentioned prior.
Ms. Hopkins, would you give us a summary
of your memo, please.
MS. HOPKINS: Certainly. So in the memo
I do give you a comparison of what the existing
building, the house, the garage, and the
screened-in porch, how that compares with the
proposal and point out that currently the land
coverage is 33.3 percent. So it's already a
nonconforming situation.
Again, this being in the R-4 District,
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which is a very small lot, a 4,800 square foot
lot, the smallest requirement in the Village.
And it was pointed out the garage is bigger than
-- the footprint is bigger than the house.
I did include a photo that the
applicants submitted of the screened-in porch,
which does contribute to the current land
coverage according to how land coverage is to be
calculated. That will be removed, as well as the
wooden deck that covers a significant amount of
the side yard.
So in essence, even though they are
increasing the ground floor, the land coverage of
all of the buildings, they're actually reducing
the impervious surface of the lot. And so the
other considerations are, as was pointed out, it
backs up, the lot backs up to service garage as
well as I-90. And the purpose, one of the
purposes of the land coverage requirement or
limitation is for visual impact on the
neighborhood. So one of the things that was
pointed out is the addition is going on the back
of the house, so it will not be visible from the
street.
And so based on all of those
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considerations, the place where it's located and
what it backs up to, et cetera, and I would
consider this an improvement to the house itself,
making it more liveable and more functional, more
marketable for resale value, that I'm
recommending approval of the application.
MAYOR LICASTRO: Board members,
questions? Comments?
MS. BRACE: No concerns with the
neighbors?
MAYOR LICASTRO: The 1.7 percent doesn't
seem like a whole lot, but here we are
regardless.
MR. KREINER: But I think it's 1.8.
MAYOR LICASTRO: There was actually
different numbers. I saw 1.7 and 1.8.
MR. KREINER: I'm just messing with you.
MS. HOPKINS: I can explain the
discrepancy. So the application included a floor
plan and the dimensions of the new construction
15 by 17 feet. That is what I used, that's 255
square feet where the applicant in the summery
used a larger number, which is where the
discrepancy is, the 0.1 percent discrepancy.
MAYOR LICASTRO: So 1.7 is accurate.
MS. HOPKINS: According to the diagram in the proposal.

MAYOR LICASTRO: Nice catch, Mr. Kreiner. Anyone else?

MR. KREINER: I think the applicants were trying to be as forthright as possible in using the larger number.

MS. BAUMAN: I just used the architect’s number.

MR. KREINER: I don’t mean to drag this out.

MS. BRACE: It’s very straightforward.

MR. KREINER: It’s a de minimus increase and it’s no big deal.

MAYOR LICASTRO: Mr. Benjamin, Mr. Molchan, any comments?

MR. MOLCHAN: No comment.

MR. BENJAMIN: I think it’s wonderful you’re making an investment in your property and our neighborhood, which is what tonight seems to be all about.

MAYOR LICASTRO: It does.

MR. BENJAMIN: It’s wonderful.

MAYOR LICASTRO: Well phrased. So is there a motion from the Board to approve the Molnar Reporting Services, LLC (440) 340-6161 request for the additional lot coverage at 1.7 percent?

MR. BENJAMIN: So moved.

MR. KREINER: Second.

MAYOR LICASTRO: Discussion? And the practical difficulty has been mentioned. Again, we all agree it’s a wonderful addition to the house and neighborhood. Any further questions or comments? All in favor of the motion?

Ayes: 4.

MAYOR LICASTRO: Anyone opposed? Thank you. Again, we’re going to try to get they on next week’s agenda if we can. So if you can attend, it would be beneficial in case there are questions from councilmembers. You have the Planning Commission and Architectural Review Board process yet pending.

Mr. Packard, any comments from you?

MR. PACKARD: No, sir.

MAYOR LICASTRO: Anyone else from the audience? There being none, I’ll entertain a motion to adjourn, please.

MR. BENJAMIN: So move.

MR. KREINER: Second.

MAYOR LICASTRO: All in favor of adjournment.

Ayes: 4.

MAYOR LICASTRO: Anyone opposed? Thank you very much.

(Meeting adjourned at 5:49 p.m.)

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MAYOR LICASTRO: Certicate

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.
