

## Agenda Item #4

<b>Case Number</b>	BZNA-000169-2024	<b>Property Size</b>	0.27 acres
<b>Address</b>	11294 Golden Bear Way	<b>Zoning</b>	R-1/Planned Development
<b>Owners</b>	Jennifer Wilmoth, HHF Enterprises LLC	<b>Reviewer</b>	Amy Steffens, AICP
<b>Applicants</b>	Troy Terew, True North	<b>BZA Meeting</b>	October 7, 2024

### Requested Action:

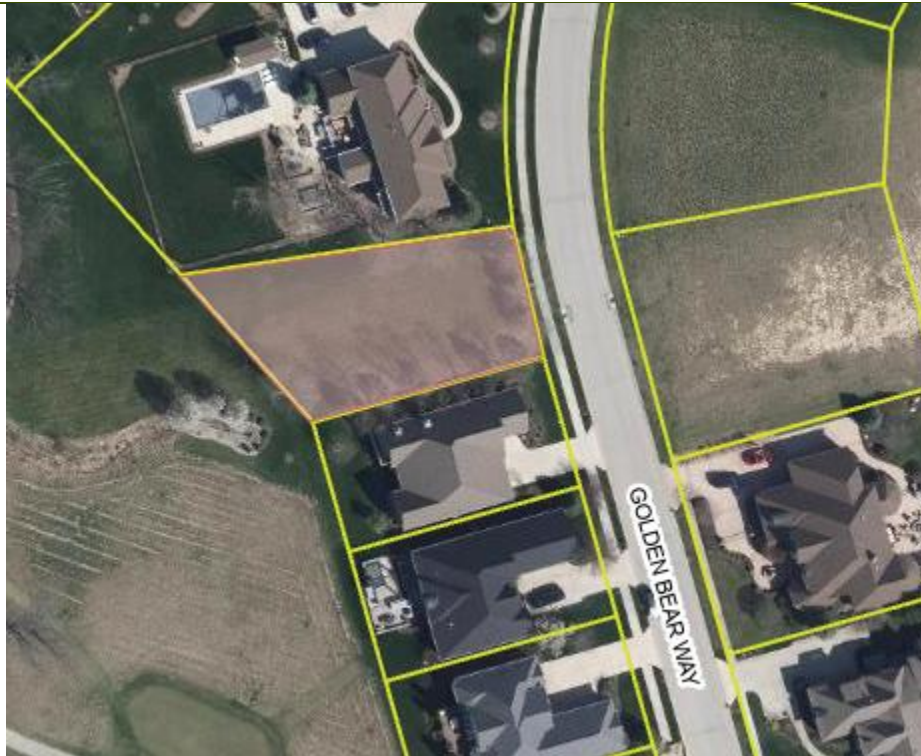
Variance of Development Standards application pursuant to UDO Table 8.B. to allow for maximum lot coverage to exceed 45 percent

### Recommendation:

Deny BZNA-000169-2024

### Table of Contents:

- A. Application
- B. Aerial Photo
- C. Site Plan
- D. Approved home permit plot plan



## ANALYSIS

The subject site is a 0.27-acre parcel, with an under-construction dwelling, in the Sagamore planned development. Dwellings abut to the north and south; adjacent parcels east are vacant or improved with dwellings; to the west is a golf course.

In June, 2024, the applicant applied to construct a 5,120-square foot dwelling (including basement) and an in-ground pool. Upon staff’s review it was noted that maximum lot coverage would exceed the 45 percent permitted by UDO Table 8.B. (64 percent proposed). The permit for the dwelling and driveway was issued on July 11, 2024, and the lot coverage regulations were indicated on the approved plot plan (Exhibit D).

**Table 1: Lot coverage calculations**

	Square footage
Lot size	11,813
Lot coverage permitted	45%
<b>Building coverage</b>	
dwelling/principal building (including attached garage)	3,678
accessory structures	0
Total building square footage	3,678
Percentage building coverage	31%
<b>Impermeable surface coverage</b>	
driveway	1,692
private walk	243
pool deck	1,954
Proposed total impervious surface coverage	3,889
<b>Lot coverage (square feet)</b>	
total proposed building coverage	3,678
total proposed impervious surface coverage	3,889
Total proposed lot coverage	7,567
Total lot coverage permitted	5,316
Percentage lot coverage	64%

## VARIANCE OF DEVELOPMENT STANDARDS FINDINGS

### AGENDA ITEM #4:

If the Board should decide to DENY the requested variances, please use the following findings of fact:

The Noblesville Board of Zoning Appeals is authorized to approve or deny variances of use from the terms of the zoning ordinance. **The BZA may impose reasonable conditions as part of its approval. A Variance of Development Standards may be approved only upon a determination in writing that the following three (3) conditions are met (see Indiana Code § 36-7-4-918.5):**

The variance requests for a second driveway on one street frontage and lot coverage in excess of 45 percent will be discussed concurrently.

1. The approval will be injurious to the public health, safety, morals, and general welfare of the community:

The applicant's findings indicate that *The Sagamore golf course has several acres of unimproved land to the rear of this lot to accommodate any additional water runoff.* No information has been submitted by the applicant to show that adjacent residential properties will or will not have to also accommodate additional runoff. The overall Sagamore development was designed at 45 percent maximum lot coverage. Incremental increases in impervious area will have an adverse effect on the adjacent properties and potentially the subdivision.

Variance approval for lot coverage in excess of 45 percent is not the only remedy at the property owner's disposal in developing the site for single-family residential uses and ancillary accessory structures.

2. The use and value of the area adjacent to the property included in the variance will be affected in a substantially adverse manner:

The use and value of the area adjacent to the property included in the variance will be affected in the substantially adverse manner by allowing the requested variance. Hardscape on nearly two-thirds of a site is not traditionally seen in a residential setting. Nearby property owners may remonstrate against this petition if they believe this request will have significant adverse effects on adjacent properties. Should nothing contrary be brought to light by adjacent owners at the public hearing, it is presumed that the approval of this variance request will not have a substantially adverse effect on the use and value of adjacent properties. Staff has not received any correspondence on this variance request. The Sagamore Homeowner's Association has approved the plot plan.

3. The strict application of the terms of the zoning ordinance will not result in practical difficulties in the use of the property.

The strict application of the terms of the zoning ordinance will not result in impractical difficulties in the use of the property. There is no unique physical condition of the property that does not apply to other properties in the same zone or vicinity that warrants variance approval on a developing site for lot coverage. Property rights would not be hindered by a complying with lot coverage requirements as evidenced by the fact that adjacent lots are developed in compliance with the standards of the UDO and the issued permit for construction of a dwelling. Furthermore, the excessive lot coverage is a personal preference that is self-created and not a practical difficulty or unique physical condition of the property.

The applicant's findings indicate that *Since we want a pool and can't fit it within the 45% restriction we are seeking a variance.* The pool could have been permitted at the same time as the house. The issue is the excess lot coverage due to the walkway and pool dec, both of which could be reduced in size to lessen the variance request.

In addition to the findings of fact, per Section 4.D.3.E.2. of the UDO the Board of Zoning Appeals *shall consider the following factors when deliberating over a variance request:*

- a. **Hardship:** No variance shall be granted pursuant to this unless the applicant shall establish that carrying out the strict letter of the provisions of this Ordinance would create a particular hardship or practical difficulty. The hardship in the FH zoning district must be exceptional, unusual, and peculiar to the property involved. Mere economic or financial hardship alone is not exceptional. Inconvenience, aesthetic considerations, physical handicaps, personal preferences, or disagreement with the neighbors also does not qualify as an exceptional hardship as they can be resolved through other means without granting a variance, even if the alternative is more expensive. The need for a property owner to build elsewhere or put the property to a different use than originally intended does not constitute a hardship.
- b. **Unique Physical Condition:** The subject lot is exceptional as compared to other lots subject to the same provision by reason of a unique physical condition, including presence of an existing use, structure, or sign, whether conforming or non-conforming; irregular or substandard shape or size; exceptional topographical features; or other extraordinary physical conditions peculiar to and inherent in the subject lot that amount to more than a mere inconvenience to the owner and that relate to or arise out of the lot rather than the personal situation of the current owner of the lot.
- c. **Not self-created:** The aforesaid unique physical condition is not the result of any action or inaction of the owner or its predecessors in title and existed at the time of the enactment of the provisions from which a variance is sought or was created by natural forces or was the result of governmental action, other than the adoption of this ordinance.
- d. **Denied substantial rights:** The carrying out of the strict letter of the provision from which variance is sought would deprive the owner of the subject lot of substantial rights commonly enjoyed by owners of other lots subject to the same provision.
- e. **Not Merely Special Privilege:** The alleged hardship or difficulty is neither merely the inability of the owner or occupant to enjoy some special privilege or additional right not available to owners or occupants of other lots subject to the same provision, nor merely the inability of the owner to make more money from the use of the subject lot.
- f. **Ordinance and Plan Purposes:** The variance would not result in a use or development of the subject lot that would be not in harmony with the general and specific purposes for which this ordinance and the provision from which a variance is sought were enacted or the general purpose and intent of the Comprehensive Plan.
- g. **No Other Remedy:** There is no means other than the requested variance by which the alleged hardship or difficulty can be avoided or remedied to a degree sufficient to permit a reasonable use of the subject lot.

- h. **Minimum Required:** The requested variance is the minimum measure of relief necessary to alleviate the alleged hardship or difficulty presented by the strict application of the ordinance.

## **RECOMMENDATION**

### **AGENDA ITEM #4**

**DENY** the requested Variance of Development Standards based upon the following findings of fact:

- The approval will be injurious to the public health, safety, morals, and general welfare of the community;
- The use and value of the area adjacent to the property included in the variance will be affected in a substantially adverse manner; and
- The strict application of the terms of the zoning ordinance will not result in practical difficulties in the use of the property.

# EXHIBIT A

## Project Narrative

Owner proposes to build a single family residence and outdoor living space on Lot 100 of Sagamore Subdivision, controlled by Sagamore PUD ordinance. Owner is seeking a variance of allowable lot coverage, to allow for 70.6% lot coverage, including House, Driveway, Walks, Patio, Deck and Pool area.

The need for the variance is to create land value in line with other Sagamore Subdivision properties. The lot coverage is consistent with several other properties in Sagamore on similarly sized properties.

The Noblesville Board of Zoning Appeals (BZA) is authorized to approve or deny Variances of Development Standards from the terms of the Unified Development Ordinance. The BZA may impose reasonable conditions as part of its approval. A Variance of Development Standards may be approved only upon a determination in writing that the following three (3) statements are true (see Indiana Code § 36-7-4-918.5):

1. The approval will not be injurious to the public health, safety, morals, and general welfare of the community. Explain why this statement is true in this case:

There is more than adequate drainage to the rear of Lot 100 Sagamore to make up for exceeding the 45% impervious soil restriction. The Sagamore golf course has several acres of unimproved land to the rear of this lot to accommodate any additional water runoff.

2. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner by the approval of this variance request. Explain why this statement is true in this case:

The home we are building is similar to other surrounding properties. The lot is very deep and the land is very open to the rear of the property. None of the improvements will have any adverse effect on the neighbors.

3. The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the subject property. Explain why this statement is true in this case:

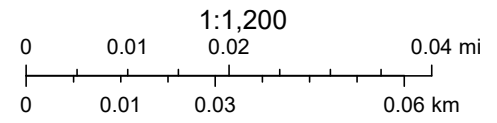
Due to the small lots in this section and only having 70' width it is not practical to build a home + have a pool and stay under 45% impervious soil restriction. Since we want a pool + can't fit it within the 45% restriction we are seeking a variance.

# EXHIBIT B

11294 Golden Bear Way



centerlines  
Parcels

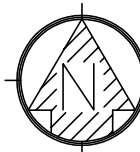




# EXHIBIT C

**SAGAMORE**  
INST.#200200003131

GROUND COVER CALCULATIONS  
LOT SIZE: 11,813 SQ.FT.



**BZA EXHIBIT  
& SITE PLAN**

1" = 30'

**LOT #100, SECTION 1**

NOBLESVILLE, INDIANA  
11294 GOLDEN BEAR WAY

IMPERVIOUS  
LOT COVERAGE: 70.6%

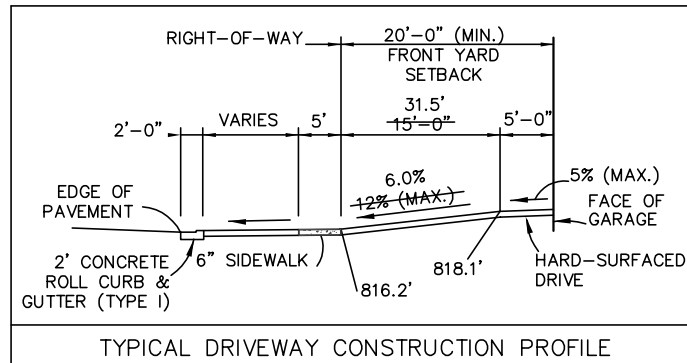
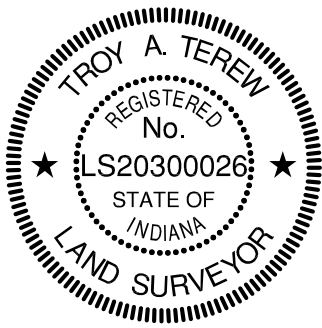
FINISHED FLOOD ELEVATION INFORMATION

IMPERVIOUS  
LOT AREA: 8,359 S.F.

PAD=815.5+/- NO PAD

1ST FLOOR FFE=820.1'

GAR FFE=818.1'  
BSM'T=810.1'  
DRIVE SLOPE=6.0%



TYPICAL DRIVEWAY CONSTRUCTION PROFILE

PREPARED FOR  
**PREMIER CUSTOM HOMES, INC.**

**NOTE:**

The proposed garage finished floor elevation is 2.2 feet above the curb at the drive, per plan garage elevation and as-built curb grade at centerline of drive.

The lowest elevation to have gravity sanitary sewer service must be more than one (1) foot above the lowest top of casting elevation of either the first upstream or downstream manhole on the main line sewer to which the connection is made.

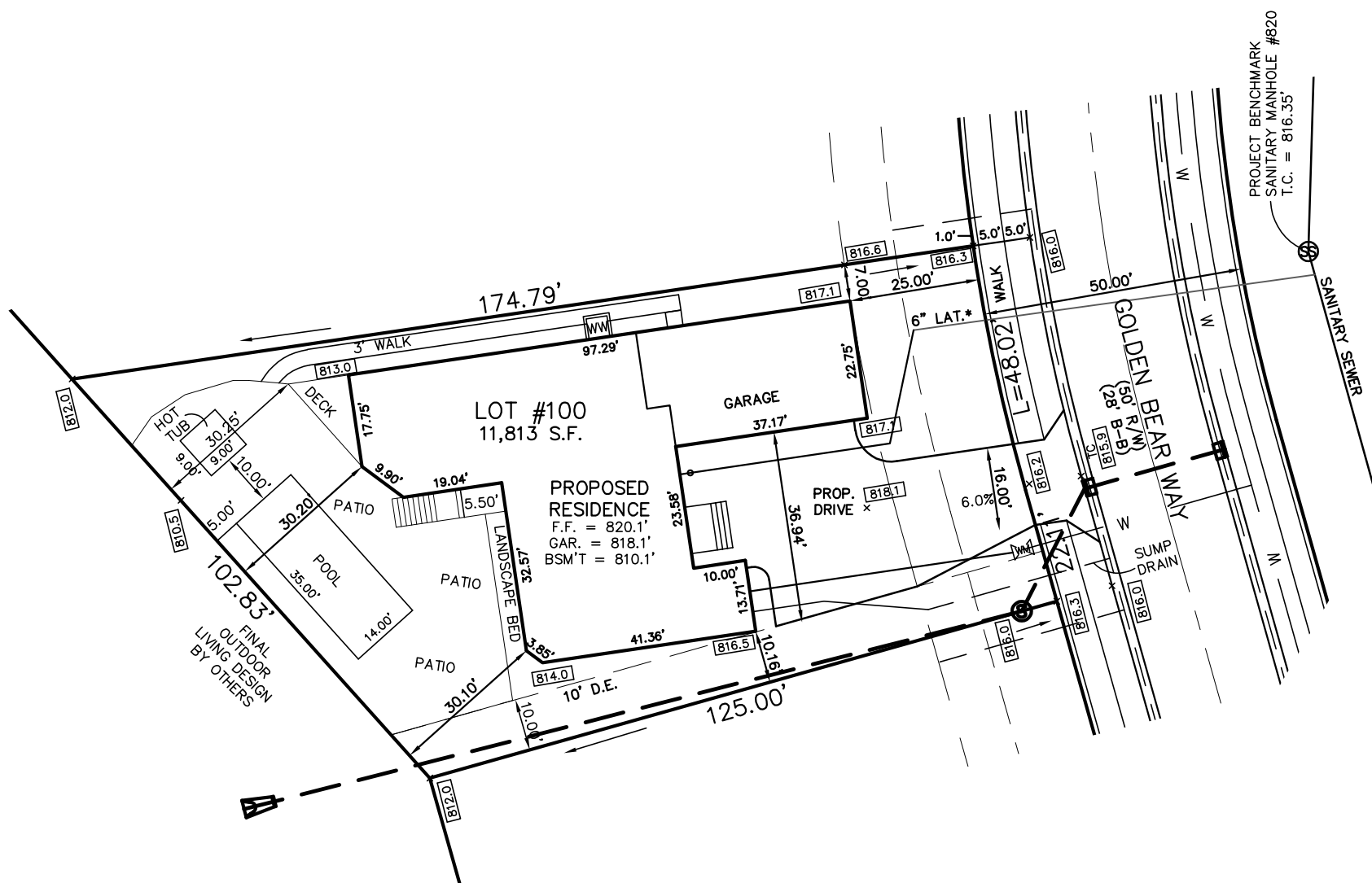
This document has been prepared for the benefit of the parties indicated heron, for the express use of obtaining a residential building permit.

**CERTIFICATION:**

The "Record Drawing" information is per "Record Drawings" prepared by Cripe. prior to construction of house and lot improvements and prepared for the benefit of the parties indicated hereon and for the purpose of obtaining a residential construction permit only. It is my opinion that if the proposed finished grades are constructed as shown, the surface drainage on the subject lot will be satisfactory for residential construction. This plan was compiled based on documents prepared by others. True North Surveying, LLC assumed no liability for the accuracy, completeness or acceptance of those documents. This drawing is not intended to be represented as a retracement or original boundary survey, a route survey, or a surveyor location report.

**FLOOD PLAIN DATA:**

ALL PART OF THIS LOT LIES IN FLOOD HAZARD ZONE "X" AS SCALED FROM THE FLOOD INSURANCE RATE MAP (FIRM) FOR HAMILTON COUNTY, INDIANA, COMMUNITY NAME, "HAMILTON COUNTY", COMMUNITY NUMBER, 18057C, PANEL NUMBER 139G, DATED NOVEMBER 19, 2014.



**NOTE:**

- DRIVE ENTRY TO CONFORM WITH CITY OF NOBLESVILLE STD.
- THE LOCATIONS, DIMENSIONS, AND WIDTH ALONG THE PROPOSED PUBLIC SIDEWALK WERE SCALED OR TAKEN FROM ENGINEERING CONSTRUCTION PLANS PREPARED BY OTHERS OR AS PROVIDED.
- VERIFY SANITARY LATERAL LOCATION PRIOR TO CONSTRUCTION
- IT SHALL BE THE RESPONSIBILITY OF THE BUILDER/CONTRACTOR TO VERIFY THE BUILDING DIMENSIONS, BUILDING LOCATIONS, THE LOCATION OF OTHER PERTINENT FEATURES AND ELEVATIONS PRIOR TO THE START OF CONSTRUCTION. THE INTENDED USE OF THIS PLOT PLAN IS FOR SECURING BUILDING PERMITS ONLY AND SHALL NOT BE USED FOR ANY OTHER PURPOSE.

**LEGEND**

000.0	—	EXISTING GRADE
000.0	—	ASBUILT GRADE
B.S.L./B.L.	—	BUILDING SETBACK LINE
U.E.	—	UTILITY EASEMENT
S.E.	—	SEWER EASEMENT
D.E.	—	DRAINAGE EASEMENT
W	—	WATER LINE

REV.#3: 08/20/24  
REV.#2: 08/19/24



LAND DEVELOPMENT CONSULTING & LAND SURVEYING SERVICES  
11650 Olio Road, Suite#1000-289  
Fishers, Indiana 46037  
Phone: (317)-841-8754  
Fax: (317)-841-8762  
E-mail: Troy@Truenorthindy.com

DRWN: TAT  
JOB#: 24-248

DATE: 05/07/24  
REV.#1: 05/28/24

SCALE: 1" = 30'  
DOCUMENT SIZE: 11"x17"

ZONED: 70' WIDE HOMESITE  
ZONING: 7' SIDE  
30' GOLF / 20' NONGOLF REAR

NOTE: BUILDER TO ENSURE POSITIVE DRAINAGE AWAY FROM STRUCTURE(S)

# EXHIBIT D

**SAGAMORE**  
INST.#200200003131

GROUND COVER CALCULATIONS  
LOT SIZE: 11,813 SQ.FT.



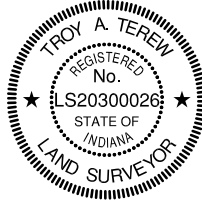
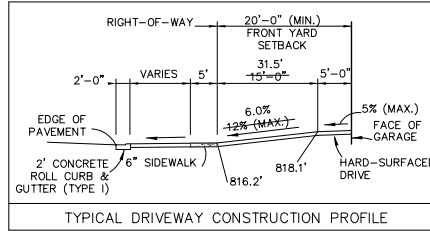
## PRE-CONSTRUCTION ELEVATION CERTIFICATE & SITE PLAN

LOT #100, SECTION 1  
NOBLESVILLE, INDIANA  
11294 GOLDEN BEAR WAY

IMPERVIOUS  
LOT COVERAGE: 64.6%

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PREPARED FOR  
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T. A. T.

**NOTE:**

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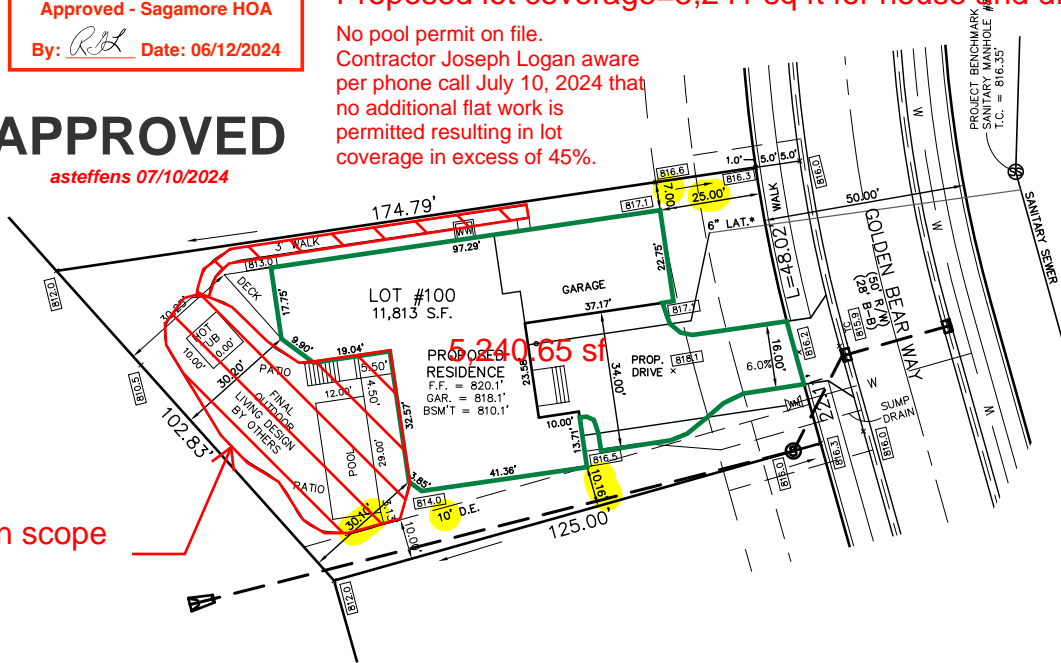
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11,813\*45%=5,316 sq ft  
Proposed lot coverage=5,241 sq ft for house and drive only

Approved - Sagamore HOA  
By: *RJH* Date: 06/12/2024

No pool permit on file.  
Contractor Joseph Logan aware per phone call July 10, 2024 that no additional flat work is permitted resulting in lot coverage in excess of 45%.

**APPROVED**  
asteffens 07/10/2024



Not covered in scope of work.

**NOTE:**

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