

**MINUTES OF THE:
WALNUT TOWNSHIP BOARD OF ZONING APPEALS (BZA)
VARIANCE HEARING # 22 - 07
February 10, 2022 – 7:55 PM**

Board of Zoning Appeals members present:

Ken Rienschild , Mark Helms, Alex Fant , Ron Sharpe, Alternate Martha Snavelly

Jane Hanley was absent

Zoning Inspector: Mike Berry - present

Invited guest(s) present:

David Schuster representing Variance 22-07

List of members of the public present:

1. Robert Slater
2. Terry Horn

The Hearing was called to order at 7:55 PM by BZA Chairman Fant.

HEARING PROCEEDINGS

Advertised Purpose of Hearing:

The purpose of this Hearing is to allow a variance to install a 20' X 40' inground pool at 133436 West Bank Dr. NE. The home owners built a concrete retaining wall 5' from the property line and they're asking that the pool be allowed to be 3' from the retaining well to accommodate the pool. The pool will be 8'10" away from the property line rather than the required 12' at the back of the property.

Swearing in of ALL members of the public that intend to speak by the Chair: Please raise your right hand and repeat "*I state your name, agree to tell the truth the whole truth and nothing but the truth during these proceedings, so help me God*".

Information provided to the Board of Zoning Appeals prior to these proceedings:

Exhibit #22-07 - A: Application for Zoning Permit # 22-07, pages 1-4

Exhibit #22-07- B: Fairfield County GIS, 1 page

Exhibit #22-07- C: Letters sent to Contiguous Property Owners on January 31, 2022, 1 page

Exhibit #22-07- D: Notice of Public Hearing, 1 page

Exhibit #22-07-E: Site Plan, 1 page

Opening comments by applicant: David Schuster, having been duly sworn in states that “I want to build an inground pool and I was told, I think, is that right that you have to be 13’.

MR. BERRY: 12’

MR. SCHUSTER: 12’ from the property line to the pool edge and by measuring the 5’ in the back, plus the wall and the 3’ to the concrete, there would be 8’10”.”

Discussion:

Chair Fant: Mike, what would be your perspective on what we’re looking at here?

Mr. Berry: We’re looking at the retaining wall he put in (Exhibit E) for a fence permit for that a year ago and that was put in basically because supposedly that’s the end of the gas line easement and he put that in, and then there’s one picture, the GIS picture, that’s not up to date. There is a pole barn that’s almost complete on the other side where they want to put the swimming pool.

Chair Fant: Other side, where other side?

MR. BERRY It’s down here.

Chair Fant: And that is facing...

MR. BERRY And it’s facing Buckeye Lake. It’s a private road there, so it’s West Bank Rd.

Chair Fant: So, it’s between West Bank and where the swimming pool’s going to go.

MR. BERRY Right, and there’s a pole barn there, that’s being built now, and there is no distance in the form for a swimming pool to be built as close to a building or a house as possible, it just has to be 12’ from the property line.

Chair Fant: It’s the back property line, correct?

MR. BERRY So, we’re going to have a reduction from 12’ to 8’10” and he meets the side yards, he’s got 13’ to the property line on each side, so that’s good, it’s just that rear one.

Chair Fant: And what is the railroad, no the gas line.

Mr. Schuster: I have to be 15’ from the gas line and that’s where the wall starts and my property starts 5 feet before the wall. I’ve got 5’, I’ve got the wall, I’ve got 3’ for concrete and I start the pool.

Chair Fant: What was the purpose of the wall?

MR. SCHUSTER: Because it's on a slope, it just levels the area out.

Chair Fant: Was the property there you were worried about it eroding down into your back yard? It is a retaining wall?

MR. SCHUSTER: yes

Chair Fant: Not just decorative

Terry Horn: Two maps, how are they oriented to each other? Orient them exactly the same, please. For the benefit of the board, you really all need to have the same orientation so you know what the applicant is asking. This is the orientation.

MR. SCHUSTER: Let me clarify the railroad looking' on here.

Chair Fant: That's not the gas line.

More discussion about the railroad.

Chair Fant: Have to be 15' from the gas line, the retaining wall was put in to retain the property in the back. So, why this size pool?

MR. SCHUSTER: We want to put a diving board on the back and we need that size pool.

Chair Fant: Is this an inground?

MR. SCHUSTER: Yes

Chair Fant: One you buy the form for as a special shape?

MR. SCHUSTER: No, it's a panel with a liner.

Chair Fant: Are there other pools in the area?

MR. BERRY I don't think so. Bob, do you know?

Mr. Slater: I think Tory has a pool. Don't know if there's a fence requirement. Have never seen a fence on that one.

MR. BERRY Yes

Mr. Slater: I recommend a fence.

MR. BERRY They'll have to put a fence in.

MR. SCHUSTER: I paid for a fence and I also paid for a flood permit.

Chair Fant: on your site plan, what are the columns?

MR. SCHUSTER: That's just the end of the pole barn.

Chair Fant: So, pole barn, you have an overhang there?

MR. SCHUSTER: It's a porch.

Chair Fant: Our letters went out on Jan. 31. Mike did we get any response from those letters?

MR. BERRY Just Bob.

Chair Fant: Bob, do you have any input on this variance?

Mr. Slalter: I'm here representing my mom, myself and my three sisters. I don't see that we have a problem with it. I mentioned the fence, I have grandkids and I wouldn't want to see anyone fall in. And it's not just small children; my father had to use a backhoe and pull out a horse that wasn't able to be fenced out of the pool area.

MR. BERRY It is a requirement that with an inground pool you have to put a 4' fence around it.

Mr. Slater: Well, there's a pool down the way 500' that doesn't have one. I'm curious about the wisdom of the 12'. You can build a building closer than 12', why 12' for a pool?

MR. BERRY That's just what they said. I didn't get clarification on that one either. You can fence the pool or the property, either one. The fence does not have to go around the water and it keeps a small child from walking in off the street into the pool

Chair Fant: So, we do have a pool around, fence or no fence, and this isn't an amusement park, just an inground pool for the family. It would increase property value, not a detriment to the area, only 4' we're talking about. Pretty private. Neighbors have anything beside you?

MR. SCHUSTER: Just lots.

Chair Fant: And because it's behind your pole barn, it's completely separated and surrounded by private property. You're off the gas line. Do we have any further discussion from the board?

Mr. Rienschild: How tall is the retaining wall now?

MR. SCHUSTER: About 10'

Mr. Slater: I can't see over it – at least 7'

Chair Fant: Elevation of property, do you know?

MR. SCHUSTER: I don't know

Chair Fant: 10' is a pretty hefty wall, pretty big wall.

Mr. Slater: Poured concrete. And they've done a nice job with it. Todd put riff raff stone down at the bottom. They've done a nice job. We're the neighbors to the back.

Chair Fant: Do I hear any other questions from the board?

No response. Do I hear a motion to approve or disapprove?

Mr. Reinschild: I move to approve the variance.

Chair Fant: And further discussion? Second?

Ms. Snavelly: I second

Chair Fant: Ken moved to approve. Second by Martha.

Mr. Horn: Could we have a summary so that the minutes reflect what you want them to say?

Chair Fant: We looked at the Supreme Court's area variance guidance, where we looked at the variance of results improve where we look at the area that it's in, we're not substantially changing the neighborhood or the character, we're not affecting government services in any way, a 4' variance, it's completely surrounded by private property it doesn't even have public facing, the gas line has an easement that can be accessed without trouble. While you did purchase with knowledge of restrictions, that's something we can consider, it's not a determining factor. So, that being said, do we have any further discussion on the acceptance of the variance? The applicant is asking for a variance from 12' to 8'10". Any further discussion?

Motion by Ken Reinschild to approve Variance # 22-07, seconded by Martha Snavelly.

Roll Call Vote

Chair Fant: Variance #22-07 is hereby approved with 5 yes votes.

Adjournment: At 8:15 PM, Martha Snavelly made a motion to close the Hearing. Ron Sharpe seconded the motion. The motion passed with 5 yes votes.

Minutes Recorded By: Diane Powell

Alex Fant – Chair

Mark Helms – Vice Chair