



**BOARD OF ZONING APPEALS
MINUTES OF THE REGULAR MEETING
June 26, 2007**

Meeting was called to order at 7:30 P.M. by Chairman Edmister.

PRESENT: Board Members Jeff Neverman, Scott Fatzinger, Jim Mayer,
Richard Edmister

ABSENT: John DesForges

ALSO PRESENT: Assistant Law Director William Huffman, Clerk of Commissions
Nicolette Sackman

Chairman Edmister explained the Sunshine Laws and the procedures of the Board of Zoning Appeals.

SELECTED CORRESPONDENCE

None

CALENDARS

Calendar 2007-07

Applicant: Thomas Culkar

Premises: 30138 St. Ives; PP# 216-22-079

Requesting to construct a pool in the side yard, at variance with 1211.04(g)(2)(b) "...the pool and all mechanical equipment used in conjunction therewith is [to be] located only in the rear yard..." and to construct a 240 sq. ft. pool house/cabana at variance with 1211.04(k) which limit's the size of utility buildings for this size lot to 150 sq. ft.; ***variance to install a pool in his side yard and a 90 sq. ft. utility building variance***

Mr. Kevin Yates, sworn in by Chairman Edmister, explained the applicant is requesting to construct a pool and pool house in their side yard due to the unusual shape of their lot. The lot is twice as wide as it is deep with the house built at the rear setback line. The lot is not very deep and there is no room to build a pool in the rear 30' setback. Mr. Yates reviewed the proposal which is for a pool, pool house and water fall feature. The entire project incorporates landscape, water features and lighting. The pool house square footage complies with code but they are requesting additional square footage for a pavilion overhang. This pavilion is attached to the pool house having one wall and three open sides. The applicant would like to be able to place a table and chairs under the pavilion cover. The pool will be located approximately 45' from the side property line and 16' from the rear property line.

Members of board expressed the pavilion area was more of an architectural feature than a utility building and were not opposed to the variance request since three sides were open. The property is unique in shape which causes a hardship. Mr. Yates explained there was originally a vacant lot adjacent to the applicant's lot which was purchased and split between the two lots on either side of the vacant lot (the applicant and his neighbor). This lot spilt was assembled to each lot and was done prior to the applicant owning his lot. Members commented if a house had been built on the vacant lot it would be in front of the proposed pool area. Members were not opposed to the request but would like to see the pool area screened with mounding and fencing. Mr. Yates advised they could provide additional screening. He informed the board there is some existing landscape material and mounding but they can provide additional to comply with the commission's request. Members asked Mr. Culkar if any of his neighbors had objections with the proposal. Mr. Thomas Culkar, sworn in by Chairman Edmister, explained he spoke to his adjacent neighbors and they had no objections. He advised the property behind him is wooded and is part of the Lakewood County Club.

The Board made the following Findings of Facts:

1. applicant's property is located on St. Ives;
2. applicant wished to construct a swimming pool in the side yard;
3. code requires that a pool be placed only in the rear yard;
4. applicant wishes to build a cabaña 240 sq. ft.;
5. code permits a cabaña to be no larger than 150 sq. ft.;
6. applicant states that their hardship is that the lot is very narrow and there is no back yard remaining, that the property is an unusual shaped lot;
7. the house was built to the setback limits of the rear yard;
8. the only place available is on the side yard which is extra large due to the fact that this lot is actually 1 ½ lots;
9. pool requires a storage area for the equipment;
10. the lot is very wide as it is at the end of a cul-de-sac;
11. applicant states that the cabaña will be an open pavilion;
12. Board finds that applicant has presented a practical difficulty or unnecessary hardship due to the shape of the lot, that the lot has a very large side yard area that is at the end of a cul-de-sac that creates an odd shaped lot, that the granting of the variance would be in keeping with the spirit, letter and intent of the codes of the city of Westlake, it will not be detrimental to the neighborhood, and that the variance be granted with the condition that the area in front of the pool be landscaped and mounded to block the view of the pool and cabaña from the street.

Motion: Mr. Neverman moved, seconded by Mr. Fatzinger to approve

ROLL CALL:

Yeas: Neverman, Fatzinger, Edmister, Mayer

Nays: None, motion passed

MISCELLANEOUS

Mr. Fatzinger questioned procedurally what happens when variances are or are not granted and an applicant does not comply with the boards ruling. Mr. Huffman advised

any applicant has a set time limit to appeal the board's ruling with the Court of Common Pleas. If an appeal is not filed and the time frame has expired and the applicant is not in compliance the property maintenance officer is notified who will issue a citation. If the matter is not resolved the city can refer it to the court for ruling. Mr. Edmister noted at the Ohio Planning Conference he attended it was noted that self inflicted hardships are not usually upheld by the courts.

APPROVAL OF MINUTES

Motion: Mr. Fatzinger moved, seconded by Mr. Neverman to approve the minutes of May 29, 2007

ROLL CALL:

Yeas: Neverman, Fatzinger, Edmister

Abstain: Mayer

Nays: None, motion passed

FINDINGS OF FACTS

Motion: Mr. Fatzinger moved, seconded by Mr. Neverman to approve the findings of fact for Calendar 2007-05 Robert House

ROLL CALL:

Yeas: Neverman, Fatzinger, Edmister

Abstain: Mayer

Nays: None, motion passed

Motion: Mr. Neverman moved, seconded by Mr. Fatzinger to approve the findings of fact for Calendar 2007-06 Tabbaa

ROLL CALL:

Yeas: Neverman, Fatzinger, Edmister

Abstain: Mayer

Nays: None, motion passed

ADJOURNMENT

Chairman Edmister adjourned the meeting at 7:50 P.M. The next regular meeting is scheduled for July 31, 2007.

Richard Edmister, Chairman

Nicolette A. Sackman, CMC
Clerk of Commissions