



**BOARD OF BUILDING AND ZONING APPEALS
MINUTES OF THE PROCEEDINGS OF THE PUBLIC HEARING
June 28, 2022**

The hearing was called to order at 7:30 P.M. by Chairman Baesel

PRESENT: Karen Alfred, Robert Swisher, Bryan Baesel, Cynthia Nolde
ABSENT: Brad Lamb
ALSO PRESENT: Clerk of Commissions Nicolette Sackman and Westlake Law Director Michael Maloney

DOCKET

Docket: Elias Karsheh 2022-11, tabled 4/26/22 5/31/22
1464 Fitzroy, PP#21321042, Ward 1

Requesting to install a 325 sf pool house (pavilion) 7' off the side property line. §1211.04(O): outdoor structures shall be located in the rear yard and on lots under 20,000 sf the total maximum unenclosed structure is 200 sf; a 125 sf variance and §1211.04(g)(4): on lots under 20,000 sf the minimum setback from the side line shall be 10' a 3' side yard setback variance.

Mr. Harala (architect), and Mr. Nader were sworn in by Mr. Maloney. They explained a revised as built drawing was submitted. The pool equipment was installed in the wrong place and will be relocated to comply with the code. It was verified the overhang for the pavilion is 4' in the front and 1' in the rear. The bath house is located 7'8" off the property line not 7'. Photos of the site were reviewed and it was noted that the fence was installed (did not require a variance) as requested by neighbors. A letter from the home owner's association was submitted with the addresses of the neighbors that reviewed the proposal.

Members of the board discussed the proposal and asked the applicant if the dimensions and setbacks provided were as built and correct. Mr. Nader verified that they were. The pavilion will remain open air and not enclosed. There is a rear wall but the remainder will not be enclosed. The bath house was constructed in the location shown as it would not block a window adjacent to the structure on the house.

After a careful review of the evidence and testimony, the Board made the following findings of fact:

1. Whether the property in question yield a reasonable return or whether there can be any beneficial use of the property without a variance – yes
2. Whether the variance is substantial – no
3. Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer a substantial detriment as a result of the variance – no
4. Whether the variance would adversely affect the delivery of governmental services – no
5. Whether the property owner purchased the property with the knowledge of the zoning restriction – n/a
6. Whether the property owner's predicament feasibly can be obviated through some other method other than a variance – no
7. Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance – yes

Motion: Mr. Swisher moved, seconded by Ms. Alfred to approve a 125 sf variance.

ROLL CALL:

Yeas: Alfred, Swisher, Basel, Nolde
Nays: None, motion carried

Motion: Ms. Alfred moved, seconded by Mr. Swisher to approve a 2'4" side yard setback variance.

ROLL CALL:

Yeas: Alfred, Swisher, Basel, Nolde
Nays: None, motion carried

Docket: Mark and Katharine Delorean 2022-12, tabled 4/26/22

22985 Detroit Rd., PP21425009, Ward 1

Requesting to construct a 389 sf garage addition 15' off the east side property line, resulting in a total of 1,667 sf of garage area. §1211.33(a): an estate lot shall have a 25' minimum side yard setback and 50' sum total of side yards, garage area shall not exceed 1,400 sf; a **10' side yard setback variance** and a **267 sf area variance**. The existing dwelling is 27' 10" off the west property line so the sum total of the side yards will be 42' 10"; a **7'2" variance for the sum total of side yards**.

Applicant sent a letter requesting to be withdrawn.

Docket: Arthur Dartt 2022-22

24279 Stonehedge, PP#21414055, Ward 1

Requesting to install a generator 5' off the side property line. §1211.20(e): central air conditioner, heat pump, etc. may be located in the side yard of a lot providing such units shall be no closer than 10' from the side lot line; a **5' side yard setback variance**.

Mr. Betts, sworn in by Mr. Maloney, explained the house is setback 10' from the property line and the generator will need a setback variance to be located 5' from the property line. The proposed location is screened by an existing fence and is in the location of the utilities. The rear of the house has a landscaped patio and the other side of the house is the location of the driveway. The proposed location is the best place as it will not be visible from the street and is in the same location as the air conditioner. Members of the board reviewed the proposal.

After a careful review of the evidence and testimony, the Board made the following findings of fact:

1. Whether the property in question yield a reasonable return or whether there can be any beneficial use of the property without a variance – no
2. Whether the variance is substantial – yes
3. Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer a substantial detriment as a result of the variance – no
4. Whether the variance would adversely affect the delivery of governmental services – no
5. Whether the property owner purchased the property with the knowledge of the zoning restriction – n/a
6. Whether the property owner's predicament feasibly can be obviated through some other method other than a variance – no
7. Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance – yes

Motion: Mr. Swisher moved, seconded by Ms. Nolde to approve a 5' side yard setback variance with the condition that the unit is screen so it is not visible from the street (existing fence to remain or other screening to be provided).

ROLL CALL:

Yeas: Alfred, Swisher, Basel, Nolde

Nays: None, motion carried

Docket: Donna Fritz 2022-23

2576 Columbia Rd., PP#21525027, Ward 2

Requesting to construct a 7' high fence. §1211.04(b)(3): fences may be permitted along the side or rear lot lines to a height of not more than 6' above the average finished grade; **a 1' height variance.**

Ms. Fritz, sworn in by Mr. Maloney, explained she would like to install a 6' tall fence. Due to the change in grade on her property the fence will be 6' tall on her neighbor's side but will be 7' on her side due to the grade change. She reviewed the history of the property and at some time when the neighbor's driveway was installed they raised the grade and the drive encroaches on her property. The fence will connect to the corner of her house and will not be visible due to landscape. She would also like the fence for security purposes to keep her neighbor's dog off her property as he has charged her in the past.

Members of the board reviewed the proposal, grade of the property and that the fence itself is only 6' tall, but will appear to be 7' only on the applicant's side of the property.

After a careful review of the evidence and testimony, the Board made the following findings of fact:

1. Whether the property in question yield a reasonable return or whether there can be any beneficial use of the property without a variance – no
2. Whether the variance is substantial – no
3. Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer a substantial detriment as a result of the variance – no
4. Whether the variance would adversely affect the delivery of governmental services – no
5. Whether the property owner purchased the property with the knowledge of the zoning restriction – n/a
6. Whether the property owner's predicament feasibly can be obviated through some other method other than a variance – no
7. Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance – yes

Motion: Ms. Alfred moved, seconded by Mr. Swisher to approve a 1' height variance.

ROLL CALL:

Yeas: Alfred, Swisher, Basel, Nolde

Nays: None, motion carried

Docket: Brent Lewanski 2022-24

30993 Bellerive Court, PP#21606062, Ward 6

Requesting to install pool equipment in the side yard of the property. §1211.04(g)(2)(B) the pool and all mechanical equipment used in conjunction therewith is to be located in the rear yard; a **location variance for the pool equipment to be located in the side yard.**

Correspondence received: 6/28/22 Letter from Mark Getsay, 30961 Bellerive Ct. – in support

Mr. Geiss (contractor) and Mr. Lewanski were sworn in by Mr. Maloney. They explained the proposal is to place the pool equipment in the side yard adjacent to the rear corner of the house. This is the only location where it will not be an eyesore and will be the least visible from the neighbors' properties. They

reviewed the site plan. The neighbor's house that will be adjacent to the equipment does not have any windows on that side of the property. Board members discussed the proposal and noted the proposed location is where the utilities are located.

After a careful review of the evidence and testimony, the Board made the following findings of fact:

1. Whether the property in question yield a reasonable return or whether there can be any beneficial use of the property without a variance – no
2. Whether the variance is substantial – no
3. Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer a substantial detriment as a result of the variance – no
4. Whether the variance would adversely affect the delivery of governmental services – no
5. Whether the property owner purchased the property with the knowledge of the zoning restriction – n/a
6. Whether the property owner's predicament feasibly can be obviated through some other method other than a variance – no
7. Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance – yes

Motion: Mr. Swisher moved, seconded by Ms. Nolde to approve a location variance for the pool equipment to be located in the side yard.

ROLL CALL:

Yeas: Alfred, Swisher, Basel, Nolde

Nays: None, motion carried

MISCELLANEOUS

None

APPROVAL OF MINUTES

Motion: Ms. Alfred moved, seconded by Mr. Swisher to approve the minutes of the May 31, 2022 Board of Building and Zoning Appeals hearing.

ROLL CALL:

Yeas: Alfred, Swisher, Basel, Nolde

Nays: None, motion carried

ADJOURNMENT

Mr. Swisher adjourned the meeting at 8:15 P.M.

Bryan Basel, Chairman

Clerk of Commissions Nicolette Sackman, MMC

Approved: _____