

**CITY OF LAPEER  
MINUTES OF A REGULAR  
ZONING BOARD OF APPEALS MEETING  
APRIL 22, 2019**

A regular meeting of the City of Lapeer Zoning Board of Appeals was held in the Commission Chambers of Lapeer City Hall, 576 Liberty Park, Lapeer, Michigan on Monday, April 22, 2019 at 7:00 p.m.

**Members Present:** Vice Chairman Jeff Hogan, Mr. Joe Black, Mr. Paul Parsch, Mr. A. Wayne Bennett and Mr. Bryan Cloutier.

**Members Absent:** Chairman Bernard Jocuns.

**Also Present:** Ms. Caitlyn Habben, Rowe Professional Services Company Planning Consultant.

Vice Chairman Hogan called the meeting to order at 7:06 p.m.

**MINUTES**

It was moved by Mr. Parsch and supported by Mr. Bennett to approve the minutes of the meeting held on February 25, 2019.

**Yeas:** Mr. Hogan, Mr. Black, Mr. Parsch and Mr. Bennett.

**Nays:** None.

**Abstain:** Mr. Cloutier.

**Absent:** Mr. Jocuns.

**MOTION CARRIED.**

**PUBLIC COMMENTS**

There were no public comments at this time.

**PUBLIC HEARING SCHEDULED**

**Sawatzke – 633 N. Court St. – Swimming Pool, Deck & Fence**

Ms. Habben reviewed the request from Robin Sawatzke for variances to the setback requirements of Sections 7.03, 7.14 and 7.15 in order to allow a pool, deck and fence in the desired location at 633 N. Court Street. Ms. Habben stated the property owner is requesting to maintain the existing 21 ft. diameter above-ground pool with a 33 foot by 28 foot raised deck and an 11 foot tall fence which was constructed without the required permits from the City's Building Department.

Ms. Habben reviewed the location and surrounding area of the subject site, a site diagram showing the existing pool, deck and fence in relation to the adjacent parcels and the variances requested which include a 2 ft. variance to allow the pool to be located 8 feet from the north side property line, a 16 ft. variance to allow the porch/deck to be located 9 feet from the rear property line and a 5 ft. variance to allow the 11 ft. tall fence to surround the pool porch/deck area. Ms. Habben reviewed photos of the pool area from various directions and the applicant's response to the request which indicate she was unaware of the permits required. Ms. Habben stated that if the board grants the requested variances the structure will still be required by the City's Building Department to comply with all applicable permits and Building Code requirements.

Ms. Habben reviewed the standards and conditions to be met in order to consider approving the variances, the applicant's response to each standard and staff findings in support and in opposition to each required standard. Ms. Habben reported the subject lot is not considered a corner lot, that the lot is a conforming sized lot with various topography changes compared to neighboring properties and reviewed the intent of the required rear and side yard setbacks and fence height restrictions.

Discussion was held regarding the fact the fence is built on top of the porch/deck, that no permits were issued for the project and fencing requirements for above ground pools.

Vice Chairman Hogan opened the public hearing at 7:23 p.m.

The following written statement was received from Anne Sheeran:

My Name is Anne Sheeran. I am the neighbor who lives right next door (north) of 633. I cannot be at this hearing as I had emergency surgery on March 25th and am in rehab still. As my mail was going to my sister's til I returned home, I was unaware of this hearing until my sister brought me my mail yesterday. The pool, porch and deck mentioned in this hearing were put in/ built late summer into early fall. I assumed they had permits for what they were doing at 633. I am firmly objecting to the structure. The "fence" is a massive wall when I am looking at it from my kitchen window or when I am on my deck. Once they put the pool in they built the deck then fenced the deck in. This deck/fence is no more than 3' - 4' from my property line. Plus, when they put the pool in, they raised their yard so now drainage from their yard, whether from snow melting or rain, now runs into my yard. I am against this structure being allowed to remain. It is an eyesore to the neighbors and as I am planning to put my home up for sale, once I am healthy enough to do so, I feel this may impede possible buyers. Thank you for considering my opinion with this matter.

Sincerely,  
Anne M. Sheeran

The following written comments on the public hearing notice were received from Kent Wischmeyer:

Referencing the requested variances to the side and rear yard setback requirements – If one adjoining property owner sides against the variance, I support the adjoining property owner, otherwise I stand neutral.

Referencing the variance request for the fence height – No, eleven feet too tall, cut 3' off the top.

Kent Wischmeyer  
724 Cedar St.  
Lapeer, MI 48446

Ms. Robin Sawatzke was present and stated she put the fence up due to the neighbors ability to see into the pool area and the need for privacy, that the grade changes a lot in the surrounding area, that previously water would stand in between the houses that caused trees to die and be removed before the pool was installed, that she previously always lived in the township, she has never lived in town and she was not aware a permit was required.

Mr. Jeff Holt, supporting Ms. Sawatzke, was present and stated he constructed the deck and fence, that the deck will have lattice around the bottom and he could possibly use a railing or lattice material on the deck around the pool rather than the privacy fencing.

Discussion was held regarding when and who pool installed the pool, the reason for fence height restrictions and that lattice material or railing would provide some privacy.

There being no further public comments, the public hearing was closed at 7:44 p.m.

Discussion was held regarding each of the variances requested, the fact the pool could be relocated south to meet the variance required from the north property line, the location of the pool on the lot and that the 11 ft. high fence is an issue.

It was moved by Mr. Black and supported by Mr. Bennett to approve a 2 ft. variance to Section 7.14.07(b) to allow the swimming pool to be located within 8 feet of the northern side property line due to the orientation of the alley, parking area and site topography and that the pool is a permitted use due to the request meeting all of the standards for granting the approval including:

- (1) The standard for which the variance is being granted would unreasonably prevent the owner from using property for a permitted purpose or would render conformity unnecessarily burdensome; and
- (2) The variance would do substantial justice to the applicant as well as to other property owners in the zoning district and a lesser relaxation of the standard would not provide substantial relief and be more consistent with justice to others; and
- (3) The problem is due to circumstances unique to the property and not to general conditions in the area; and
- (4) The problem that resulted in the need for the variance was not created by the applicant or previous owners of the property; and
- (5) Issuance of the variance would still ensure that the spirit of the ordinance is observed, public safety secured and substantial justice done.

**MOTION CARRIED.**

It was moved by Mr. Black and supported by Mr. Bennett to approve a 16 ft. variance to the rear yard setback requirements of Section 7.03.03 Table 7.03.2 with applying Section 7.14.03(c)(1) to allow the porch to be located 9 feet from the rear property line due to the request meeting all of the standards for granting the approval including:

- (1) The standard for which the variance is being granted would unreasonably prevent the owner from using property for a permitted purpose or would render conformity unnecessarily burdensome; and
- (2) The variance would do substantial justice to the applicant as well as to other property owners in the zoning district and a lesser relaxation of the standard would not provide substantial relief and be more consistent with justice to others; and
- (3) The problem is due to circumstances unique to the property and not to general conditions in the area; and
- (4) The problem that resulted in the need for the variance was not created by the applicant or previous owners of the property; and
- (5) Issuance of the variance would still ensure that the spirit of the ordinance is observed, public safety secured and substantial justice done.

**Yeas:** Mr. Hogan, Mr. Black, Mr. Parsch and Mr. Bennett.

**Nays:** Mr. Cloutier.

**Abstain:** None.

**Absent:** Mr. Jocuns.

**MOTION CARRIED.**

Discussion was held regarding the request for the variance for the 11 ft. high fence, the fact the issue was self-created by the applicant, the topography and grade of the subject site and other potential solutions to achieve privacy other than the existing fence.

After discussion it was moved by Mr. Black and supported by Mr. Parsch to deny the request for a 5 ft. variance to Section 7.15.03(b)(3)a to allow an 11 ft. tall fence to surround the pool porch/deck area due to the problem that resulted in the need for the variance was created by the applicant.

**MOTION CARRIED.**

### **OTHER BUSINESS**

#### **May Meeting Date**

After discussion on receipt of two cases for the May meeting, that the regular meeting date falls on Memorial Day and board member availability, it was the consensus of the board to schedule the May meeting for 7:00 p.m. on Wednesday, May 29, 2019.

### **ADJOURNMENT**

There being no further business, it was moved by Mr. Bennett to adjourn the meeting at 8:02 p.m. **MEETING ADJOURNED.**

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Mr. Paul Parsch  
Secretary