



**BOARD OF ZONING APPEALS
MINUTES OF THE PROCEEDINGS OF THE PUBLIC HEARING
JANUARY 28, 2014**

OATH OF OFFICE

Bryan Baesel was sworn in by Mr. Kelleher

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

PRESENT: Board Members Matthew Jones, Robert Swisher, Bryan Baesel, Scott Fatzinger

ABSENT: Jeff Neverman

ALSO PRESENT: Assistant Law Director Sean Kelleher and Nicolette Sackman Clerk of Commissions

ELECTION OF OFFICERS

To be held at a future meeting when all members are present.

SELECTED CORRESPONDENCE

None

CALENDARS

Calendar 2014-01

Applicant: Mr. & Mrs. Patrick Killian

Premises: 2519 Interlachen, P.P. #214-30-099

Requesting to construct an outdoor structure (pool enclosure) at variance with 1211.04(o) which states... "Free standing...open air structures...including, but not limited to gazebos, pergolas, arbors, pavilions, trellises, or similar structures...shall be as set forth permitted in the following... up to a 300 sq. ft. open air structure on a lot between 20,000 to 40,000 sq. ft." Requesting a 1,920 sq. ft. enclosed structure. This will require two variances: a 1,620 sq. ft. area variance and a second for the enclosure of an otherwise open air required structure

Mr. Killian, sworn in by Mr. Kelleher, explained he wished to construct a pool with a retractable enclosure to cover the pool. He plans to construct the pool in the spring. Regarding the variance request he did not think that 1211.04(o) is the correct section of code that would be applicable to his request as what he is requesting is not an open air structure similar to those listed in 1211.04(o). He stated that section 1365.06 is the correct section of code. Chairman Jones and Ms. Sackman informed the applicant that the Board of Zoning Appeal cannot address variance requests to Chapter 13 of the code as that chapter of the code is addressed by the Board of Building Appeals. Ms. Sackman informed that the Board of Building Appeals is awaiting

appointments to the board which has not meet since 2004 or 2005 and did not have a regularly scheduled meeting day. It was suggested that the Board of Zoning Appeals hear Mr. Killian's case and determine if they felt the request was related to Chapter 12 zoning codes as determined by the building department.

Mr. Killian stated that the pool enclosure is not a structure and will have no foundation. It is placed on rollers so the enclosure can be retracted and opened. The walls of the enclosure fold into themselves on each end of the pool and Mr. Killian presented photos of the pool enclosure when open and closed. He stated this type of structure is better than a fence surrounding the pool. The proposed location of the pool is in the rear yard. Mr. Killian stated when he purchased the home seven years ago there were two existing sheds on the property and the shed at the rear of the property will be converted into a pool house for the pool equipment. He did go to the five surrounding homes on the cul-de-sac of Interlachen and received signatures from three of the five property owners in favor of his request. Two of the property owners were in Florida so he was unable to speak with them. He explained the reason for the pool enclosure is so the pool can be used 10 months out of the year. His daughter is autistic and they have found regular use of a pool is therapeutic for his daughter. He stated going to the recreation center to use the pool can be over stimulating for her so he would like a pool at home as that would be a better situation for her use.

Mr. Jeff Kenyon, Arcadia Glass House, was sworn in by Mr. Kelleher. He explained the pool enclosure is retractable and reviewed the specifications of the enclosure, how it works, presented material samples and explained the enclosure is a frame with translucent glass panels. He stated the proposed enclosure is attractive and a nice alternative to a 6' board on board fence that would be required to surround the pool. The side walls of the enclosure range in height from 6' to 8' and the peak of the roof is 10' 11". The proposed enclosure would cover 12.8% of the rear yard. The length of the enclosure will be approximately 60' when closed.

Members of the board questioned if the enclosure would be heated, the distance from the house and surrounding property lines and if the applicant had considered attaching it to the house. Mr. Kenyon explained the enclosure can be heated as some people use them year round and reviewed ways they are heated. The enclosure will be 20' from the house, 10' from the rear lot line, and 46' and 70' from the side lot lines. Mr. Killian stated that attaching the pool to the house could be done if they had to but they have not reviewed any engineering plans to construct the pool as an addition to the house at this time. Mr. Killian explained the areas surrounding the pool will remain grass. The pool will be located to the rear of the patio and there may be a walkway installed to the entrance of the enclosure. It was questioned if there were any similar units nearby. Mr. Kenyon stated they have installed some in other communities but not in Westlake. He stated the proposed enclosure model to be used is high quality and a nice model enclosure.

Chairman Jones discussed that he was uncertain if this use is similar to an open air structure as noted in 1211.04(o) and he didn't think that is was an open air structure. He did not know what section of code would apply to this request. What is being proposed is to allow three structures in the rear yard – a shed, converting a shed into a pool house and this pool enclosure. When the Board of Zoning Appeals requested codes to address open air structures it was because they were receiving many variance requests for structures such as gazebos, pergolas, arbors, and pavilions or example and wasn't sure that the intent of that code was for this type of a structure. The

variance request is quite substantial and almost six times what is permitted by code for an open air structure which he could not support. Mr. Baesel questioned if this structure was similar to a greenhouse as that is what it looks like but Chairman Jones noted a greenhouse has to be attached to the house to be permitted. Chairman Jones noted if this were an addition to the house a lot coverage variance would most likely be required and the applicant would need to reapply as a building addition and have those plans reviewed for possible variances. Mr. Fatzinger questioned if this structure should be considered under 1211.04(o) as an open air structure or another section of code. It was discussed since the applicant is not looking to construct the pool until April or May to table the matter and have building, planning and law review the request and provide the board with a legal opinion regarding the variance request and what section of code is applicable.

Motion: Mr. Fatzinger moved, seconded by Mr. Swisher to table calendar 2014-01 until the next hearing for building, planning and law to review the correct code sections.

ROLL CALL:

Yeas: Jones, Swisher, Baesel, Fatzinger

Nays: none, motion carried

APPROVAL OF MINUTES

Motion: Mr. Fatzinger moved, seconded by Mr. Swisher to approve the minutes of November 26, 2013

ROLL CALL:

Yeas: Jones, Swisher, Baesel

Abstain: Fatzinger

Nays: none, motion carried

FINDINGS OF FACTS

Motion: Mr. Fatzinger moved, seconded by Mr. Baesel to approve the findings of fact for Calendar 2013-10 Boepple

ROLL CALL:

Yeas: Jones, Swisher, Baesel

Abstain: Fatzinger

Nays: none, motion carried

MISCELLANEOUS - none

ADJOURNMENT

Chairman Jones adjourned the meeting at 8:06 P.M.

Matt Jones, Chairman

Nicolette Sackman, Clerk of Commissions

Approved: February 26, 2014