



**BOARD OF ZONING APPEALS  
MINUTES OF THE PROCEEDINGS OF THE PUBLIC HEARING  
JULY 29, 2014**

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 Clerk of Commissions Nicolette Sackman

**SELECTED CORRESPONDENCE**

**Docket 2014-15**

6/23/14 letter from Michael Halligan, 31216 Lincoln Rd. – in favor of request

6/26/14 letter from Marc & Jan Kelemen, 31100 Lincoln Rd. – concerns with request

7/27/14 letter from Christine Karabinus, 31080 Lincoln Rd. – no objections to variance request but concerns with front yard setback

**DOCKETS**

**Docket 2014-15**

**Applicant: Matthew and Amanda Love**

**Premises: 31194 Lincoln Rd., PP# 217-01-030**

**Requesting to install a new home with the total adjoining side yard widths of 27'-6 1/2" (on the east side) and 25'- 3 1/2" (on the west side) at variance with 1211.08(e) which states the total width of both side yards of a lot and the width of two adjoining side yards on adjoining lots shall not be less than 30'; this is will require two variances: the east side will require a 2'-5 1/2" width variance and the west side will require a 4'- 8 1/2" width variance.**

Mr. Tom Liggett (architect), sworn in by Mr. Kelleher, explained the applicant's lot is 90' wide by 454' deep. The proposed house is to be constructed with 15' side yard setbacks on each side which conforms to the code. The code requires a 30' setback between dwellings and the adjacent homes are closer to the property lines than 15'. One house has a side yard setback of 10'5 1/2" and the other house has a side yard setback of 12' 6". Both homes were probably constructed under an old zoning code which allowed them to be closer to the property line than 15'. With the applicant's house constructed as proposed there would be a minimum of 25' between dwellings. Due to the depth of the lot the house could be setback further on the lot with the same 15' side yards setbacks and not need any variances as the house would be behind the adjacent houses and comply with the 30' setback between dwellings but that location is not

desirable as it would change the character of the neighborhood by placing the applicant's home much further back on the lot than the surrounding homes. They would like to keep the house at the same setback line as the surrounding houses as it would look better and not be detrimental to the neighborhood.

Members of the board noted the applicant's proposal does comply with the 15' side yard setback requirements but not the 30' setback between dwellings due to the smaller side yard setbacks on the adjacent properties. They felt the request made sense and agreed that the proposed location was preferred over placing the house further back on the parcel so it would be behind the adjacent homes to avoid a variance. The board preferred to see the house setback so it is in line with the surrounding houses and the proposed variance would not be detrimental to the character of the neighborhood.

After a careful review of the plans and testimony of the applicants the Board finds that:

1. The house as currently planned will have the 15 foot side-yard setback on each side. This is what is envisioned by the current code.
2. Ironically, the variance requested to reach the 30 foot minimum distance between adjacent properties is caused by the adjacent properties being less than 15' from the applicant's property line. One adjacent property is only 10.5' from the applicant's property line while the other is only 12.5' from the applicant's property line.
3. The alternative would be to place the applicant's home farther back on the property making it "not in line" with the adjacent properties and "putting it in the backyard of the neighbors". A less desirable alternative.
4. Members of the Board found that that, the problem could not be reasonably solved in any other manner, and there would be no detrimental effect on the character of the neighborhood. Additionally the spirit of the code would not be violated by the granting of a variance.

**Motion:** Mr. Fatzinger moved, seconded by Mr. Baesel to approve a setback variance of 2'6" between dwellings on the east side of the house.

ROLL CALL:

Yeas: Jones, Swisher, Baesel, Fatzinger

Nays: None, motion carried

**Motion:** Mr. Fatzinger moved, seconded by Mr. Baesel to approve a setback variance of 4'9" between dwellings on the west side of the house.

ROLL CALL:

Yeas: Jones, Swisher, Baesel, Fatzinger

Nays: None, motion carried

#### **Docket 2014-16**

**Applicant: Barry & Ray Sanders**

**Premises: 4985 Bradley Rd. PP#217-17-042**

**Requesting to install the equipment for a pool (spa) in the side yard of the property at variance with 1211.04(g)(2)(B) which states the pool and all mechanical equipment used in conjunction therewith is located only in the rear yard and is not less than 10' from any lot line; a location variance for the pool equipment to be located in the side yard.**

Mr. Steve Pattie, (contractor), sworn in by Mr. Kelleher, explained the applicant is seeking a variance to allow spa equipment to be located in the side yard rather than the rear yard. The proposed location is on the side of the garage where other utilities are located such as the air conditioner unit and a generator. The proposed spa will be located behind the garage and placing the equipment in this location keeps all the utilities together and near the spa. Mr. Pattie advised that he spoke to the neighbor to the north who is not opposed to the request. He also noted this parcel is a 5 acre lot and it makes sense to place the equipment in the proposed location.

Members of the board noted this is a beautiful estate size lot with a lot of natural screening and landscape. They agreed that the proposed location made sense but even though there is a lot of natural screening they would like a condition of approval to be that the area is screened from the neighbor to the north. The proposed location is approximately 68' from the property line and the members had no issues with the request. Mr. Pattie advised that screening can be added and he had discussed that option with the applicant and neighbor already.

After a careful review of the plans and testimony of the applicants the Board finds that:

1. the homeowner seeks to place equipment for a pool (spa) at the side of the home (next to the garage), co-locating it with the other existing equipment for the home's utilities.
2. This requires a variance from the code requirement 1211.04(g)(2)(B) that states that private swimming pools shall be permitted provided that the pool and all mechanical equipment is located only in the rear yard and is not less than 10' from any lot line.
3. The pool equipment as proposed will be 68' from the northerly property line.
4. The equipment will remain screened from the northerly property line.
5. The pool equipment will not be visible from the street.
6. The applicants occupy an estate sized lot that is uniquely shaped, the requested variance is not substantial, the spirit of the code would not be violated by the granting of a variance, and there would be no detrimental effect on the character of the neighborhood.

**Motion:** Mr. Fatzinger moved, seconded by Mr. Swisher to approve he variance request to allow the spa equipment to be located in the side yard with the condition that the equipment remain fully landscape screened.

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 June 24, 2014

ROLL CALL:

Yeas: Jones, Swisher, Baesel, Fatzinger

Nays: none, motion carried

### **FINDINGS OF FACTS**

**Motion:** Mr. Fatzinger moved, seconded by Mr. Baesel to approve the findings of fact for Docket 2014-12 Fleming

ROLL CALL:

Yeas: Jones, Swisher, Baesel, Fatzinger  
Nays: none, motion carried

**Motion:** Mr. Fatzinger moved, seconded by Mr. Swisher to approve the findings of fact for Docket 2014-13 Al-Madani

ROLL CALL:

Yeas: Jones, Swisher, Baesel, Fatzinger  
Nays: none, motion carried

**Motion:** Mr. Fatzinger moved, seconded by Mr. Baesel to approve the findings of fact for Docket 2014-14 Ault

ROLL CALL:

Yeas: Jones, Swisher, Baesel, Fatzinger  
Nays: none, motion carried

**MISCELLANEOUS** - None

**ADJOURNMENT**

Chairman Jones adjourned the meeting at 7:46 P.M.

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Matt Jones, Chairman

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Nicolette Sackman, Clerk of Commissions

Approved: \_\_\_\_\_