



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

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

PRESENT: Board Members Matthew Jones, Jeff Neverman, Scott Fatzinger, Bryan Baesel
ABSENT: Robert Swisher
ALSO PRESENT: Law Director John Wheeler and Clerk of Commissions Nicolette Sackman

SELECTED CORRESPONDENCE

Docket 2014-21

10/20/14 letter from Kenneth Schnabel, 28380 Southbridge Circle – not in favor
10/21/14 letter from John & Trisha Skelly, 28290 Southbridge Circle – not in favor
10/23/14 letter from Rick Kraszewski, 28260 Southbridge Circle – not in favor

Docket 2014-22

10/20/14 letter from Kam Hasan, 3698 Cinnamon Way – not in favor
10/24/14 letter from Patricia & Albert Binggeli, 3694 Cinnamon Way – in favor

DOCKETS

Docket 2014-21

Applicant: Diane Nunnally

Premises: 28350 Southbridge Circle, PP#216-19-031

Requesting to install a shed which is 336 sq. ft. in area and 14' in height, at variance with 1211.04(k) which states, a utility building shall be permitted in a rear yard provided that on lots under 20,000 sq. ft. such buildings are not larger than 120 sq. ft. & not higher than 11'; an area variance of 216 sq. ft. and a height variance of 3'.

Ms. Diane Nunnally, sworn in by Mr. Wheeler, explained her request is for a larger shed than permitted but she thought that she could use a smaller shed than what she originally requested. She explained that she has two disabled children that need therapy daily and due to their needs have special bicycles that have four wheels and are larger than a standard bicycle. There are three bicycles that she needs to fit in the shed so a standard 10' x 12' shed is not large enough but she could probably use a smaller shed than what her brother advised she should request. She would like the opportunity for her children to ride their bicycles like other children in the neighborhood and just needs more room in the shed for storage of the special bicycles.

Members of the board questioned if there are requirements for the shed to be ADA compliant and if a smaller shed is an option what size would be requested. Ms. Nunnally did not know the

exact measurements of the bicycles and was uncertain what size shed she would need. Members of the board were understanding of her request but the size requested is almost three times what is permitted and would like to know what size would work. Mr. Wheeler suggested tabling the matter and for Ms. Nunnally to meet with his office and the building department to determine what size would be needed and review what can be done.

Motion: Mr. Fatzinger moved, seconded by Mr. Neverman to table Docket 2014-21 until the November 25, 2014 public hearing.

ROLL CALL:

Yeas: Jones, Basel, Fatzinger, Neverman

Nays: None, motion carried

Docket 2014-22

Applicant: Chris and Randy Perla

Premises: 3702 Cinnamon Way, PP#215-18-027

Requesting to install a pool 4'- 8" off the rear property line and 4'- 8" off the side property line at variance with 1211.20 (& 1211.04(g)(2)B) which states a swimming pool (and all mechanical equipment) shall be located in the rear yard only and 10' from the rear and side lot lines; a setback variance of 5'4" from the side lot line and 5'4" setback variance from the rear lot line.

Mr. William Heiman (contractor), Mr. Randy and Mrs. Chris Perla were sworn in by Mr. Wheeler. Mr. Perla explained they wish to install an in ground pool in their rear yard. The house is placed on an angle on the lot due the street, which makes the rear yard triangular shape rather than a normal rectangular shape. Due to the shape of the lot setback variances are needed as the pool will be setback 5'4" from the property line. Mr. Perla advised they wish to use the pool for therapy as they have knee and hip problems and would like the pool for laps and for use by their grandchildren. Mr. Heiman explained he placed stakes and string on the property lines to determine the location of the pool. Two corners of the pool would be located in the setback due to the shape of the rear yard.

Members of the board questioned what the square box on the drawing was, which Mr. Heiman explained was the existing screened in porch. It was also questioned where the pool equipment would be located, which Mr. Heiman explained would be in an area by the air conditioner which is behind the garage. It will be more than 10' off the property line. The size of the pool was questioned because if it were smaller, possibly 16' x 32' instead of 16' x 40' a variance would not be needed. It was noted that the rear of the parcel has a slope to the grade. Mr. Perla explained they needed it to be 40' so they would be able to do laps in the pool.

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

1. Applicant's property is located at 3702 Cinnamon Way;
2. Applicant wishes to install a pool in their backyard which will be 4'-8" off the rear property line and 4'-8" off the side property line;
3. The Code requires a swimming pool and all mechanical equipment to be located in the rear yard only and 10' from the rear and side lot lines;

4. The applicant states that he and his wife have medical needs and will use the pool for aqua therapy as well as recreationally; further, the pool's length should be sufficient to permit lap swimming;
5. The Applicant states that his practical necessity is that the lot is not squared off in the rear and is narrower in the rear than in the front;
6. The Applicant states that the length of the pool would be adjacent to the woods in the backyard which cannot be built upon;
7. The Applicant states that it is not feasible to place the pool in any other area of the backyard due to the unique shape of the lot;
8. The Board finds that the Applicant has presented a practical difficulty due to the unique shape of the property and the granting of the variance for the pool and equipment would be not detrimental to the neighborhood and would be in keeping with the spirit, letter and intent of the Codes of the City of Westlake; and
9. The Board finds that the request for a variance for the construction of the pool and mechanical equipment in the backyard as requested is granted.

Motion: Mr. Fatzinger moved, seconded by Mr. Neverman to grant a 5'4" side yard variance with the condition that the pool equipment is located in the rear yard per code requirements.

ROLL CALL:

Yeas: Jones, Basel, Fatzinger

Nays: Neverman, motion carried

Motion: Mr. Fatzinger moved, seconded by Mr. Basel to grant a 5'4" rear yard variance with the condition that the pool equipment is located in the rear yard per code requirements.

ROLL CALL:

Yeas: Jones, Basel, Fatzinger

Nays: Neverman, motion carried

Docket 2014-23

Applicant: Jeff Villwock

Premises: 23073 Westwood Rd., PP#214-31-015

Requesting to install an addition 12'- 2 1/2" off the side property line at variance with 1211.09 which states the minimum side yard shall be 15' wide; a 2'- 9 1/2" side yard variance.

Mr. Jeff Villwock, sworn in by Mr. Wheeler, explained he is placing an addition onto his home for a master bedroom. The wall of the addition will be in line with the existing setback of his house. He advised that his house was constructed when the side yard setback was 10' and now it is required to be 15' which is why he needs a variance. The addition will line up with the existing house setback, however, it will be closer to the property line because the house is placed on an angle on the lot so the rear of the house is closer to the property line than the front corner of the house is.

Discussion ensued on the setback proposed and if the addition could be made smaller so a variance would not be needed. Mr. Villwock stated if he reduced the size of the addition a master bath would have to be very small and they needed room for furniture in the room. He reiterated that the addition wall will follow the same line of the existing house which he thought would

look better than an addition that was cut into the line of the house or have a step in along the wall. It was noted that the neighbor's house is on the same angle as the applicant's house so the addition would not be any closer to the neighbor than the existing house. The lot has an odd configuration and the proposal would maintain the character of the neighborhood. It was questioned if a condition could be placed on the variance so it only applied to the addition as submitted to the board, which Mr. Wheeler advised could be done but any property owner of this parcel could not construct anything outside of the setback variance.

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

1. Applicant's property is located at 23073 Westwood Road;
2. Applicant wishes to construct an addition 12'-2 and 1/2" off the side property line;
3. The Code requires the minimum side yard shall be 15' wide;
4. The Applicant states that the addition is a master bedroom;
5. The Applicant states that the house was built in the early 1990's when the side yard requirement was 10' and he wishes to keep the existing structure symmetrical;
6. The Applicant states that the addition will minimally encroach upon the current side yard line requirement;
7. The Applicant states that the practical difficulty is the change in the side yard requirement and the need to keep the building symmetrical for aesthetic and practical purposes;
8. The Board finds that the Applicant has presented a practical difficulty, that the property is unique as it relates to the change in the side yard requirement, and the granting of the variance for the addition would not be detrimental to the neighborhood and would be in keeping with the spirit, letter and intent of the Codes of the City of Westlake; and
9. The Board finds that the request for a side yard variance for construction of the addition as requested is granted.

Motion: Mr. Fatzinger moved, seconded by Mr. Basel to grant a 2'9 1/2" side yard setback variance.

ROLL CALL:

Yeas: Jones, Basel, Fatzinger, Neverman

Nays: None, motion carried

APPROVAL OF MINUTES

The August 26th minutes and findings were not acted on and will be acted on at the next public hearing.

Motion: Mr. Fatzinger moved, seconded by Mr. Neverman to approve the minutes of September 30, 2014

ROLL CALL:

Yeas: Jones, Basel, Fatzinger, Neverman

Nays: None, motion carried

Motion: Mr. Fatzinger moved, seconded by Mr. Neverman to approve the findings of fact for Docket 2014-18 Buckingham Homes

ROLL CALL:

Yeas: Jones, Basel, Fatzinger, Neverman

Nays: None, motion carried

Motion: Mr. Fatzinger moved, seconded by Mr. Neverman to approve the findings of fact for Docket 2014-19 Healy

ROLL CALL:

Yeas: Jones, Basel, Fatzinger, Neverman

Nays: None, motion carried

Motion: Mr. Fatzinger moved, seconded by Mr. Neverman to approve the findings of fact for Docket 2014-20 Rapp

ROLL CALL:

Yeas: Jones, Basel, Fatzinger, Neverman

Nays: None, motion carried

FINDINGS OF FACTS - None

MISCELLANEOUS - None

ADJOURNMENT

Chairman Jones adjourned the meeting at 8:04 P.M.

Matt Jones, Chairman

Nicolette Sackman, Clerk of Commissions

Approved: _____