

TOWN OF EAST GREENBUSH ZONING BOARD OF APPEALS

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MEMORANDUM

EAST GREENBUSH ZONING BOARD OF APPEALS MEETING MINUTES OCTOBER 24, 2023

Members

Matt Ostiguy, Vice Chairman
Bob Seward III
Scot Strevell
Tom Hickey

Also Present:

William Hessney, Attorney
Alison Lovely, Secretary

CALL TO ORDER / DETERMINATION OF QUORUM

Vice Chairman Ostiguy called the meeting to order and determined a quorum of four (4) members were present. Jeff Pangburn has recused himself from tonight's meeting and was absent.

PUBLIC HEARINGS:

RECONVENE ZBA Appeal #2023-10-Lukowski- 12 Redwood Court- Area Variance-Inground Pool

Vice Chairman Ostiguy stated that he wanted to enter into the record the Planning Board Recommendation as that's why they tabled the public hearing at the last meeting.

- Planning Board Recommendation with supplemental report by Don Panton

Vice Chairman Ostiguy asked the applicant if he had anything else to add.

Mark Lukowski stated that in addition to his other statements he wanted to say that the reason they're asking for the variance is due to an existing deck and would like to keep the inground pool close to the fence and difficult to put closer to the other side as he doesn't want to damage the roots from the tree on that side.

Vice Chairman Ostiguy asked if there were any questions from the Board.

•Tom Hickey asked what prevents the applicant from moving it out 6 feet further from the property line. Mark Lukowski stated that he feels it will help him maximize the space in his yard.

•Scot Strevell asked for confirmation that the fence was about a foot in. Mark Lukowski stated that is correct, as he wanted the room to put the drainage on the outside of the fence.

Vice Chairman Ostiguy asked if there were any other questions. There were none.

Vice Chairman Ostiguy asked if anyone in the public wanted to speak.

•Dave Terpening wanted to say that it's good that someone comes into the Town before they just go ahead a build something & feels that the Board should give the family some leeway and there was no objection from the neighbors.

•Another person spoke and stated they felt like it was a reasonable request.

Vice Chairman Ostiguy asked if there were any other questions. There were none.

Scot Strevell made a motion to close the public hearing.

Seconded by Bob Seward. Motion carried by a 4-0 vote.

ZBA Appeal #2023-12–Curley– 1 Gail Court- 3 Area Variances-Inground Pool

Vice Chairman Ostiguy referenced the following as being in the record:

- Legal Notice-was read by Vice Chairman Ostiguy
- Rensselaer County Recommendation
- Planning Board Recommendation with supplemental report by Bob Jucha
- ZBA Area Variance Application Packet with Area Variance Criteria

James Curley stated that they're on a cul-de-sac so the inground pool would be installed in the side/back yard. There is a swing set in the back yard. They could've put on the other side, but there are underground power lines on that side.

James Curley stated that there is another house in the neighborhood that has a pool like their proposing. Tara Curley spoke and stated that they have a very narrow back yard and that they will fix the lock on the gate of the pool.

Vice Chairman Ostiguy asked if there were any questions from the Board.

•Tom Hickey had a question on the front setback, he said it said that the front setback was greater than 25 feet and asked how much greater it is. Tara Curley stated that when they first measured it was 25 feet but that is from the street, they need to measure from the dotted line, which is the property line.

Vice Chairman Ostiguy asked for clarification that it was 25 feet from the road but the property line is more like 19 feet. Tara Curley stated that's correct.

Vice Chairman Ostiguy stated that they stated that the depth behind the house is shallow, how deep is it. James Curley stated that it's probably about 22 feet.

•Tom Hickey asked if they could talk about the power line on the one side of the house. James Curley stated that there are power lines that run underground on the other side of the house according to the pool company.

•Scot Strevell also asked if they could talk more about the power line on the one side of the house & whether that was an option or not.

Vice Chairman Ostiguy stated that the applicant said there are other pools with fences in the neighborhood. James Curley stated yes and Tara stated that they are corner lots as well.

Vice Chairman Ostiguy asked if there were any other questions from the Board. There were none.

Vice Chairman Ostiguy asked if anyone in the public wanted to speak.

•Dave Terpening wanted to say that it's good that someone comes into the Town before they just go ahead a build something & stated that Bob Jucha from the Planning Board gave a negative recommendation.

Vice Chairman Ostiguy asked if the applicant wanted to add anything else. James Curley stated that his son's physical therapist stated that swimming would be good for him and currently they go to the YMCA.

Tom Hickey made a motion to close the public hearing.

Seconded by Bob Strevell. Motion carried by a 4-0 vote.

SEQR DETERMINATIONS & RECOMMENDATIONS:

ZBA Appeal #2023-10–Lukowski– 12 Redwood Court- Area Variance-Inground Pool

This is a type II Action-there is no further action necessary.

ZBA Appeal #2023-12–Curley– 1 Gail Court- 3 Area Variances-Inground Pool

This is a type II Action-there is no further action necessary.

WORKSHOPS:

ZBA Appeal #2023-10–Lukowski– 12 Redwood Court- Area Variance-Inground Pool

Resolved, That the Board of Appeals makes the following findings of fact regarding the proposed side setback of 4 feet in the rear yard:

1. There will not be an undesirable change in the character of the neighborhood as the back yard is a fenced yard and there are similar situations with pools in the back yard of corresponding homes in the neighborhood.
2. There is another method available to the applicant as the pool could be moved further over in the yard and/or a smaller pool could be chosen.
3. The requested variance is substantial.
4. The proposed variance will not have an adverse effect on the neighborhood given the proposal to include a building trench, which would protect from the drainage perspective in the back yard.
5. The alleged difficulty is self-created; however, that shall not necessarily preclude the granting of the area variance.

Resolved, that the application for the proposed 15 x 28' inground swimming pool in the rear yard with a 4-foot side setback be DENIED.

This resolution was moved by Matt Ostiguy and seconded by Bob Seward at a meeting duly held on October 24, 2023.

(Discussion)

A vote was taken as follows:

Tom Hickey	<u>Yes</u>
Matt Ostiguy	<u>Yes</u>
Jeff Pangburn	<u>Absent</u>
Bob Seward III	<u>Yes</u>
Scot Strevell	<u>Yes</u>

Motion carried 4-0

ZBA Appeal #2023-12–Curley– 1 Gail Court- 3 Area Variances-Inground Pool

Resolved, That the Board of Appeals makes the following findings of fact regarding the proposed setback of six feet from an above ground structure to the inground swimming pool:

1. There will not be an undesirable change in the character of the neighborhood as the pool will be installed behind the fenced in yard and there are other pools similarly situated in the neighborhood.
2. There is no other method available to the applicant as there is a shallow back yard, there is an underground power line in the corner and regardless of where the pool would be installed, there would be variances needed.
3. The requested variance is substantial but unavoidable.
4. The proposed variance will not have an adverse effect on the neighborhood given the back yard is fenced in and there will be no other effect due to that.
5. The alleged difficulty is self-created; however, that shall not necessarily preclude the granting of the area variance and as discussed given the fact that there is no other option, the self-creation is a challenge for the applicant.

Resolved, that the application for the installation of a 12' x 24' inground swimming pool in the side yard with a proposed six-foot setback from an above ground structure be GRANTED with the following conditions:

1. There will always be an impervious fence surrounding the fence surrounding the pool as long as the pool is in the side yard.
2. That the homeowner makes repairs to the existing fence that is currently leaning over onto the adjacent property and is fixed prior to the construction of the swimming pool.
3. That no permanent structure greater than the height of the fence be installed around the pool.

This resolution was moved by Matt Ostiguy and seconded by Tom Hickey at a meeting duly held on October 24, 2023.

(Discussion)

A vote was taken as follows:

Tom Hickey	<u>Yes</u>
Matt Ostiguy	<u>Yes</u>
Jeff Pangburn	<u>Absent</u>
Bob Seward III	<u>Yes</u>
Scot Strevell	<u>Yes</u>

Motion carried 4-0

Resolved, That the Board of Appeals makes the following findings of fact regarding the side setback of six feet from the inground swimming pool:

1. There will not be an undesirable change in the character of the neighborhood as the pool will be installed behind the fenced in yard and there are other similar pools in the neighborhood.
2. There is no other method available to the applicant as it is a shallow back yard, there are unground power cables in the corner of the yard on the other side, and regardless of where the pool would be installed, there would be variances needed.
3. The requested variance is substantial, but it is unavoidable given the lot size.
4. The proposed variance will not have an adverse effect on the neighborhood given that the pool will be positioned behind the fence in the side yard.
5. The alleged difficulty is self-created; however, that shall not necessarily preclude the granting of the area variance and the board discussed this as being a lessor condition given the situation with the yard itself. .

Resolved, that the application for the installation of a 12' x 24' inground swimming pool in the side yard with a proposed six-foot side setback be GRANTED with three conditions:

1. There will always be an impervious fence surrounding the fence surrounding the pool as long as the pool is in the side yard.
2. That the homeowner makes repairs to the existing fence that is currently leaning over onto the adjacent property and is fixed prior to the construction of the swimming pool.
3. That no permanent structure greater than the height of the fence be installed around the pool.

This resolution was moved by Matt Ostiguy and seconded by Scot Strevell at a meeting duly held on October 24, 2023.

(Discussion)

A vote was taken as follows:

Tom Hickey	<u>Yes</u>
Matt Ostiguy	<u>Yes</u>
Jeff Pangburn	<u>Absent</u>
Bob Seward III	<u>Yes</u>
Scot Strevell	<u>Yes</u>

Motion carried 4-0

Resolved, That the Board of Appeals makes the following findings of fact regarding the front setback of six feet from the inground swimming pool:

1. There will not be an undesirable change in the character of the neighborhood as the pool will be installed behind a fenced in yard and there are other similar pools in the neighborhood.
2. There is no other method available to the applicant as this is a shallow back yard, there are underground power cables in the opposite corner and regardless of where the pool would be installed it would still require a variance.
3. The requested variance is substantial but unavoidable, in this case you could not move the pool back far enough given the size of the yard.
4. The proposed variance will not have an adverse effect on the neighborhood given the pool will be fenced in.
5. The alleged difficulty is self-created; however, that shall not necessarily preclude the granting of the area variance, as discussed there is no other options available.

Resolved, that the application for the installation of a 12' x 24' inground swimming pool in the side yard with a proposed six-foot front setback be GRANTED with three conditions:

1. There will always be an impervious fence surrounding the fence surrounding the pool as long as the pool is in the side yard.
2. That the homeowner makes repairs to the existing fence that is currently leaning over onto the adjacent property and is fixed prior to the construction of the swimming pool.
3. That no permanent structure greater than the height of the fence be installed around the pool.

This resolution was moved by Matt Ostiguy and seconded by Tom Hickey at a meeting duly held on October 24, 2023.

(Discussion)

A vote was taken as follows:

Tom Hickey	<u>Yes</u>
Matt Ostiguy	<u>Yes</u>
Jeff Pangburn	<u>Absent</u>
Bob Seward III	<u>Yes</u>
Scot Strevell	<u>Yes</u>

Motion carried 4-0

NEXT MEETING: The next meeting is on November 14, 2023

APPROVAL OF MINUTES:

Motion by Scot Strevell to approve the September 26, 2023 meeting minutes. Seconded by Bob Seward. Motion carried by a 4-0 vote.

MOTION TO ADJOURN

There being no further business before the Board, the meeting was adjourned upon a motion by Tom Hickey. Seconded by Scot Strevell. Motion Carried by a 4-0 vote.

Respectfully Submitted

Alison Lovely

Alison Lovely, ZBA Secretary