

VILLAGE OF MINOA
PUBLIC HEARING ZONING BOARD MINUTES

Application – Mr. Matthew Barkley

Upon due notice, a Public Hearing of the Village of Minoa Zoning Board of Appeals was held on Thursday, April 23, 2015 at 7:00 pm, in the Municipal Building in the Village Board Room, 240 North Main Street, Minoa, New York.

Present: Deputy Chairman Chris Beers, ZBA Members Bernard Beck Jr., Scott Parish and John Turbeville, Attorney Courtney Hills and Secretary Barbara Sturick.

Absent: Chairman Charlie Tocci

Also present: Charlene and Matthew Barkley, Cereasa Kingsley, Sharon Sexstone, Alexz Troutman, Whitney Beu, Tom Knowlden, Sarah Coleman and Greg Coleman

PLEASE TAKE NOTICE that the Zoning Board of Appeals of the Village of Minoa, New York, will hold a public hearing on April 23, 2015 at 7:00 p.m., in the Municipal Building, located at 240 North Main Street, Minoa, New York 13116, on the request of Matthew Barkley, for an area variance of the regulations of the Village of Minoa Zoning Ordinance, specifically the requirements of §160-25.1(A), accessory uses and structures shall be located no closer to the rear lot line than a distance of not less than 10% of the lot width, nor any closer to the side lot line than the nearest point of the principal building or use for premises located in Residential A-1 Districts. Applicant proposes an above ground pool to be located from the rear lot line at a distance less than 10% of the lot width, or as an alternative to be located at a distance from the side lot line less than the nearest point of the principal building to the side yard line. The parcel is located within a Residential A-1 Zoning District. The subject parcel is designated as Tax Parcel No. 002.-09-05.0 and located at 139 Fay Lane, Minoa, NY.

Deputy Chairman Beers called the Zoning Board Meeting to order at 7:00 p.m.

A motion was made by Scott Parish to ratify prior approval of the Public Hearing Area Variance Application minutes of Matthew and Kimberly Raterman dated June 6th, 2013. Seconded by John Turbeville. All in favor. Chris Beers abstained as he was not present at the hearing. Motion Carried.

A motion was made by John Turbeville to ratify prior approval of the Public Hearing Area Variance Application minutes of Wayne G. Konseck dated Thursday, July 17th 2014. Seconded by Bernard Beck Jr. All in favor. Chris Beers abstained as he was not present at the hearing. Motion Carried.

Attorney Hills open the Public Hearing and read the published Public Hearing Legal Notice. Secretary Sturick confirmed for the record that the Legal Notice was submitted to Syracuse Media Group publication on 04/07/2015 (order confirmation Ad Order #0000555233), posted in the Village Hall, Library, Greiner's Hardware, Post Office, Sunshine Mart and Scotty's Automotive (all within the Village), and was sent to neighbors located within 500 feet of the subject premises via first class mail.

Mr. Barkley addressed the Board and referred to his variance request as to the location of where he would like to install a 24' above ground swimming pool 4' high. He is aware that the Village requires structures to be 10' from the property line and in the shadow of the house. His first request would place the pool behind the house and would be in the shadow of the house but is 4.5' from the line. The alternative option is the side of his house and would be 10' from the property line but would not be in the shadow of the house. Attorney Hill confirmed with Mr. Barkley that for alternative "A" he is requesting 5.1' variance from the property line and for alternative "B" he is requesting 12' variance from the shadow of the house. Mr. Barkley stated that he provided two alternatives for the Board to review stating that his preference was to locate the pool directly behind the house.

Attorney Hills informed Mr. Barkley that the Board, in determining whether or not to grant an area variance, is tasked with conducting a balancing test. She advised they must weigh the benefit to the applicant if the relief was granted against the burden to the health, safety and welfare that may be suffered by the community. She further advised in doing so they must consider the following five factors:

1. Whether an undesirable change will be produced in the character of neighborhood or whether a detriment to nearby properties will be created by granting of area variance;
2. Whether the benefit sought by applicant can be achieved by an alternative method, feasible for applicant to pursue, other than area variance;
3. Whether the requested area variance is substantial;
4. Whether the proposed variance will have adverse effect on physical and environmental conditions in neighborhood or district; and
5. Whether the alleged difficulty was self-created, which consideration shall be relevant but not dispositive to issuance of area variance?

Attorney Hills advised Mr. Barkley that when addressing the Board he should gear his presentation around those five criteria. She noted however he did not have to satisfy all five criteria to be granted an area variance, but the Board must nonetheless consider each one.

Mr. Barkley addressed the five criteria as follows:

1. Mr. Barkley stated that he did not believe his pool would be an undesirable change to the character of neighborhood or that a detriment to nearby properties will be created by granting of area variance; his next door neighbor has a pool and the neighbor kitty corner has a pool which is not in the shadow of the house.

2. Whether the benefit sought by applicant can be achieved by an alternative method, feasible for applicant to pursue, other than area variance. Mr. Barkley provided 2 alternatives of the pool locations on his survey here attached as Alternative "A" and Alternative "B" and both options need a variance. He also stated that the Gazebo which is on the survey is no longer there.
3. Whether the requested area variance is substantial for the neighborhood. Mrs. Barkley stated that she preferred the variance request of Alternative "A" for safety and privacy of the pool since it will not be seen from the road and she has concerns about it being Alternative "B".
4. Mr. Barkley stated that their property is flat and there would be no digging to install the pool and that they do not have any standing water so it should not have any adverse effect on physical and environmental conditions in neighborhood or district. Secretary Sturick stated that she spoke with DPW Superintendent Thomas Petterelli about the variance request and if there were any concerns and he stated that he did not see any problems, no easement in backyard.
5. Mr. and Mrs. Barkley acknowledge that the alleged difficulty was self-created by their desire to install the pool.

Deputy Chairman Beers stated that approve of a particular feet off rear line needs to be accurate and Mr. Green will be measuring for accuracy of the request. The distance will be measured from the furthest point and question if 4.5' is correct number.

Deputy Chairmen Beers asked if anyone else present would like to address the Board:

Sara Coleman of 138 Dorothy Street stated that she received the Public Hearing notice in the mail and she was in support of the pool being placed behind the house but supports whichever passes.

Tom Knowlden of 300 Edgerton Street stated that he is directly behind their property and supported the pool and that the fence was on the property line. His wife has concern with the chlorinated water damaging her flower garden which is along the fence line and their clothes line. Mr. Barkley stated that it will be a salt water pool. Mr. Knowlden understands the desire to have directly in backyard.

Deputy Chairmen Beers read an email submitted by Dan Engelhardt of 152 Dorothy St. in support to the issuance of the variance request, a true copy of same is attached hereto and made part hereof as Exhibit "A".

A motion was made by Member Scott Parish to close the Public Hearing and continue into Regular Session of the Village of Minoa Zoning Board of Appeals at 7:15 p.m. The motion was seconded by Member Bernard Beck, and all were in favor. The motion was carried.

Zoning Board of Appeals members discussed in its regular session:

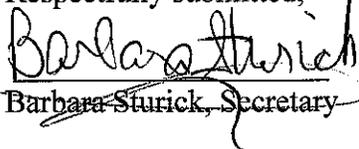
1. Whether an undesirable change will be produced in the character of neighborhood or whether a detriment to nearby properties will be created by granting of area variance; Scott Parish stated there are other pools in the neighborhood. Members agreed that there are pools and sheds located near property lines so theirs would not change character of the neighborhood. Chris Beers noted that the detriment to the neighbors flower was acknowledged and that it is a salt water pool and not chlorine. Water from the pool should not reach the flowers from splashing.
2. Whether the benefit sought by applicant can be achieved by an alternative method, feasible for applicant to pursue, other than area variance; John Turbeville stated that two logical alternative locations have been provided.
3. Whether the requested area variance is substantial; members discussed that alternative "A" 50% setback request is substantial as for percentage but for character of neighborhood it is not a substantial request. As for option "B" 12 ft is a more substantial request and aesthetically can be seen from the road.
4. Whether the proposed variance will have adverse effect on physical and environmental conditions in neighborhood or district; members agreed that option "A" cannot be seen from road, the placement of the pool is not in an easement and that a certified survey was provided not showing any easement.
5. Whether the alleged difficulty was self-created, which consideration shall be relevant but not dispositive to issuance of area variance? Board agreed that it is self-created.

Attorney Hills stated the proposed project and action contemplated comprised of a Type I Action pursuant to the New York State Environmental Quality Review Act, and as such no further review was required.

A motion was made by Bernard Beck to approve the Variance Applicant proposes Alternative "A" to place an above ground pool to be located from the rear lot line at a distance less than 10% of the lot width, 4.5 ft requested 5.1 variance, seconded by Scott Parish. All in favor. Motion carried.

Deputy Chairman Beers made a motion to close the Regular meeting of the Village of Minoa Zoning Board of Appeals at 7:30 p.m. The motion was seconded by Member Turbeville, and all were in favor. The motion carried.

Respectfully submitted,


Barbara Sturick, Secretary

Barbara Sturick

From: Dan Engelhardt [erinroadassoc@aol.com]
Sent: Saturday, April 18, 2015 12:46 PM
To: Barbara Sturick
Subject: Fwd: Variance request parcel number 002.-09-05.0

RECEIVED
APR 20 2015
VILLAGE OF MINOA

Dear Barb:

Spellcheck changed " variance" into the word " placement"
on the letter of support for Matt Barclay's variance.

I support the variance being granted.

Dan

Sent from my iPad

Begin forwarded message:

From: Dan Engelhardt <erinroadassoc@aol.com>
Date: April 18, 2015 at 10:02:08 AM EDT
To: "bsturick@villageofminoa.com" <bsturick@villageofminoa.com>
Subject: Variance request parcel number 002.-09-05.0

April 18, 2015

Re: Variance Request
139 Fay Lane

Dear Barb:

I am writing in support of the variance request for placement of an above
ground pool at 139 Fay Lane, Minoa , NY (parcel 002.-09-05.0).

I received notice of the public hearing, and will be out of town on April 23, 2015.
Here's wishing Mr. Barkley and his family many years of enjoyment
of this pool.

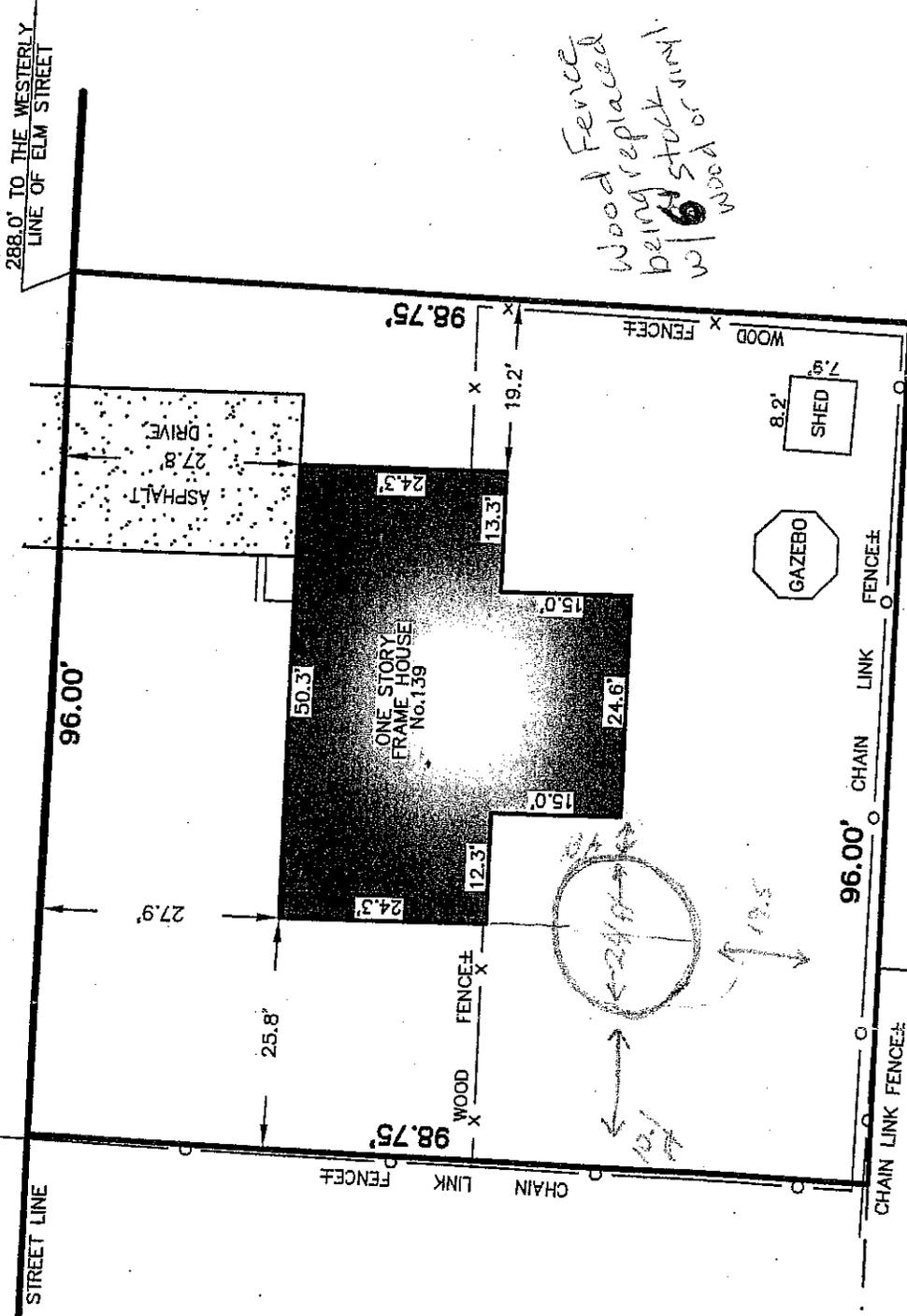
Sincerely,

Dan Engelhardt
152 Dorothy Street
Minoa, NY

Sent from my iPad

EXHIBIT "A"

FAY LANE



ONLY COPIES OF THIS SURVEY MADE FROM THE ORIGINAL SURVEY WITH THE EMBOSSED SEAL AND SIGNED IN RED INK ARE TRUE AND VALID COPIES.
 UNAUTHORIZED ALTERATIONS OR ADDITIONS TO A SURVEY MAP BEARING A LICENSED LAND SURVEYOR'S SEAL IS A VIOLATION OF SECTION 7209 SUBDIVISION 2 OF THE NEW YORK STATE EDUCATION LAW.
 LOCATION SURVEYS DO NOT INCLUDE THE STAKING OF THE PROPERTY CORNERS EXCEPT AS SHOWN.

LOCATION SURVEY ON LOT No. 14 OF THE FAY KNOLLS TRACT, FILED FEBRUARY 3, 1955, MAP No. 3691

KNOWN AS No. 139 FAY LANE, VILLAGE OF MINOA, COUNTY OF ONONDAGA, NEW YORK

DRAWN BY: KRH

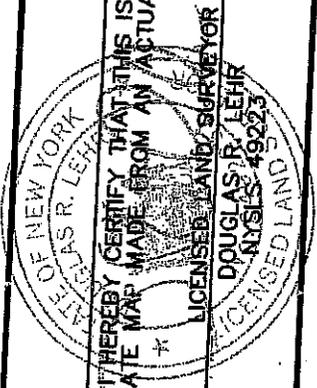
SCALE: 1"=20'

REVISIONS:

DATE: 20 SEPT 2012

DRAWING No. 12-1-21
A

I HEREBY CERTIFY THAT THIS IS AN ACCURATE MAP MADE FROM AN ACTUAL SURVEY.



LEHR
LAND SURVEYORS



LIVERPOOL, NEW YORK
315-451-3333
lehrsurveyors@aol.com

ALTERNATIVE "B"

TRACT