

VILLAGE OF MINOA
PUBLIC HEARING ZONING BOARD MINUTES

Application – Jorgensen, Timothy

Upon due notice, a Public Hearing of the Village of Minoa Zoning Board of Appeals was held on Thursday November 8, 2018 at 7:30 pm, in the Municipal Building in the Village Board Room, 240 North Main Street, Minoa, New York.

Present: Chairman Charlie Tocci, ZBA Members Chris Beers, Scott Parish, and Nicole Stoffel, Attorney Courtney Hills and Secretary Barbara Sturick.

Absent: Member John Turbeville

Also present: Tim Jorgensen

PLEASE TAKE NOTICE that the Zoning Board of Appeals of the Village of Minoa, New York, will hold a Public Hearing on November 8th 2018 at 7:30 p.m., in the Municipal Building, located at 240 North Main Street, Minoa, New York 13116, on the request of Timothy Jorgensen for a variance of the regulations of §160-25.1(A) of the Village of Minoa Zoning Ordinance relative to accessory structure placement. The applicant is proposing an above-ground pool to be located closer to the side yard lot line than permitted by §160-25.1(A), specifically a 6.5' variance. The parcel is located within a Residential A Zoning District. The subject parcel is 106 Forest View Lane Minoa, NY designated as Tax Parcel No. 005.-02-18.0.

Chairman Tocci called the Zoning Board Meeting to order at 7:30 p.m.

Attorney Hills read the Public Hearing Legal Notice.

Attorney Hills advised 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?

Mr. Jorgensen stated he wanted install an above ground pool with two decks off set from the shadow of the house. He referred to the variance criteria stating he did not believe it would have an undesirable change to the character of neighborhood or a detriment to nearby properties as he has a 6 ft privacy fence and you would not be able to see. He checked with an engineer as to whether it was possible to place the pool in another location but was advised that scenario would interfere with his morning room and there would be increase in cost to push the pool back further into yard. He stated whether the request was substantial was a matter of perception, but pointed out his request was only a few feet and did not believe such a request was substantial. He does not believe it would have any adverse environmental effects. He realizes the alleged difficulty was self-created, as it is the definition of a variance request.

A motion was made by Member Chris Beers to close the Public Hearing and continue into Regular Session of the Village of Minoa Zoning Board of Appeals at 7:47 p.m. The motion was seconded by Member Nicole Stoffel. All in favor. Motion carried.

Chairman Tocci confirmed notification to neighboring residents within 500' radius of applicant, publication in newspaper and posting within village locations.

The Board Zoning Board of Appeals members discussed in its regular session the **request of Timothy Jorgensen for a variance of the regulations of §160-25.1(A) of the Village of Minoa Zoning Ordinance relative to accessory structure placement. The applicant is proposing an above-ground pool to be located closer to the side yard lot line than permitted by §160-25.1(A), specifically a 6.5' variance:**

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; Board members agreed they did not believe granted the variance would create and undesirable change. There is an above ground pool around the corner without a fence so even if the 6 ft privacy fence was removed it would not be a detriment to or inconsistent with nearby properties.
2. Whether the benefit sought by applicant can be achieved by an alternative method, feasible for applicant to pursue, other than area variance. The Board members acknowledge that Mr. Jorgensen did look into alternative methods but it would either block his sunroom or increase the installation expense by \$3,000.00 placing it in an alternative location.
3. The Board members concurred that they believed the requested area variance was not substantial, noting similar request have been granted. The Board noted there is a 2 ½' Fireplace bump out on same side of the house which blocks the view of the pool.

4. The Board determined the proposed variance would likely not have any adverse environmental effects.
5. The Board determined the alleged difficulty was self-created, which consideration shall be relevant but not dispositive to issuance of area variance.

Secretary Barbara Sturick stated there was no other correspondence for or against the Variance application.

Attorney Hills stated under New York State Environmental Quality Review Act, the application is comprised of a Type II Action, the applicant filled out Part 1 of the NYS Environmental Quality Review short form detailing the proposed action. A motion was made by Member Scott Parish to assign the Board as Lead Agency, the Board reviewed Part I of the Short Form SEQRA, and determined based on the information provided the proposed action would result in no moderate to large impacts, and issued a Determination of Significance that the proposed action would have no adverse environmental impacts. Second by Member Nicole Stoffel. All in favor. Motion carried.

A motion was made by Member Scott Parish to Approve Area Variance Application as submitted. Seconded by Member Nicole Stoffel. All in favor. Motion carried.

A motion was made by Member Chris Beers to close the Regular meeting of the Village of Minoa Zoning Board of Appeals at 8:07 p.m. The motion was seconded by Member Nicole Stoffel, and all were in favor. The motion carried.

Respectfully submitted,

Barbara Sturick, Secretary