

PERKINS TOWNSHIP BOARD OF ZONING APPEALS MEETING

Held By: Perkins Township Board of Zoning Appeals

Place: Perkins Township Service Facility, Meeting Room, 2610 Columbus Avenue

Date: June 1st, 2020

Time: 4:00 p.m.

Board Members Present: Mr. Larry Pitts, Chairperson
Mr. Michael Bixler
Mr. Will Spence
Mr. Kastor
Mr. David Bertsch, Alternate

Board Members & Staff Absent & Excused: Mr. Gary Gast

Staff in attendance: Mr. Gary Boyle, Administrator
Ms. Melanie Murray, Planner/ Zoning Inspector
Mr. Ryan Printy, Planning Intern

I. Call to Order

Mr. Pitts called the meeting to order at 4:00 p.m. and welcomed everyone. Mr. Pitts led the Board and the audience with the Pledge of Allegiance. Mr. Pitts explained to the audience how the meeting will take place. Mr. Printy took roll call.

II. Minutes

Mr. Pitts asked for a motion on the March 16th, 2020 minutes. Mr. Kastor made a motion to approve the March 26th, 2020 minutes as submitted. Mr. Bertsch seconded the motion. Roll Call: Mr. Pitts, yes; Mr. Kastor, yes; Mr. Bixler, yes; Mr. Spence, yes; Mr. Bertsch, yes; The minutes were approved as submitted.

III. Application for a Variance
Substitution of Electric Pool Cover for a Fence Surrounding Pool or Yard
Jeremy Lowe
5510 Sandy Acres

Mr. Pitts reviewed the past meeting and the board's decision to table the application at that meeting until staff could visit the site.

Mr. Printy read the application. Ms. Murray reviewed the Staff Report with the Board. Ms. Murray stated a variance has been submitted to allow an automatic cover for an in-ground pool without a fence whereas Section 24.6 (4) of the Zoning Resolution requires a six (6) foot fence to surround a pool and/or the entire yard. Ms. Murray stated the property in question is zoned "R-1"/ Single Family Residential. Ms. Murray stated all the Township Departments have been notified and their comments were included in the staff report.

Mr. Jeremy Lowe expressed with concerns with process and Mr. Ricci Building Official not being involv. Ms. Murray stated that the Board of Zoning Appeals is a Zoning Department job, not a Building Department task. Ms. Murray also stated that every person who applies for a variance pays the \$350 application fees.

Mr. Spence made a motion to Close the Public Hearing and Open the Public Meeting. Mr. Bixler seconded the motion. Roll Call: Mr. Pitts, yes; Mr. Kastor, yes; Mr. Bixler, yes; Mr. P Spence, yes; Mr. Bertsch, yes. The Public Hearing was closed, and the Public Meeting was opened.

Mr. Kastor stated that he has been on the board for 25 years and expressed disappointment that community members conveyed the Board is hard to deal with. Mr. Kastor stated that he felt that they have listened to variance requests and have made solid judgements on various applications. Mr. Kastor advised that he was not the first hearing for this application, and he was getting up to speed. Mr. Kastor asked if department heads changed the staff report after visiting the property. Ms. Murray advised that they had.

Mr. Kastor asked what the hardship was at the property. Mr. Lowe advised that it was the 6-foot drop in the rear of the property along with an odd shaped lot and drainage easements in the back of the property. Mr. Kastor asked if the pool was complete and if Mr. Lowe was using it. Mr. Lowe replied that this is correct. Mr. Lowe stated that they rolled the dice and got the automatic cover.

Mr. Kastor then asked about how the cover works, i.e. programming, timing etc. Mr. Lowe explained that you must visually see whether the pool open or close and you must physically hold the button at all time. Mr. Lowe explained that you receive email and text alerts after the pool has been open for whatever set period.

Mr. Kastor noted that he read the narrative and that a case like this came up about 10 years, but the technology at the time was not the same. Mr. Kastor noted that a large majority of residential drowning accidents come from occupants within the residences. Mr. Kastor noted that having both a fence and cover is the ideal situation.

Mr. Bixler addressed Mr. Lowe and expressed the concern he had over every staff member and department head not recommending a variance. Mr. Bixler noted that we received a letter from a neighbor, Brenda Pitt, detailing her concern over the lack of fence.

Mr. Spence asked if the pool cover technology was internet driven. Mr. Lowe explained that yes it was. Mr. Spence addresses Mr. Kastor and explained that there were changes in the staff recommendations.

Mr. Lowe explained to Mr. Bixler that he felt that the letter that was sent out to nearby property owners was not a good enough description of the variance he was applying for. Mr. Lowe stated that no where in the letter did it expressly say what they are trying to accomplish. Mr. Lowe stated that the neighborhood, Brenda Pitt, who expressed concern over the pool without a fence did not understand what they were trying to achieve. Ms. Murray stated that she spoke to the neighbor several times and described the variance that the Lowe's were requesting, so she probably did understand what this request detailed.

Mr. Kastor asked if there was any other correspondence from other residents. Ms. Murray stated she had not received anything else.

Mr. Pitts stated that he was uncomfortable with the application the first time. Mr. Pitts mentioned comments from all department heads as written in the staff report. Mr. Pitts stated that it a final decision will need to be made at this meeting. Mr. Pitts noted that the process for this application was a little different than other applications as the Board tabled the application and gave the applicant, Mr. Lowe the benefit of the doubt and for staff to try and understand the situation completely.

Mr. Bertsch stated that his take away from the last meeting was that getting the all department heads out to the property for a meeting was an extraordinary. Mr. Bertsch mentioned that he was looking for the departments to be in favor of the lack of fence after the meeting.

Mr. Pitts asked Mr. Lowe about the wall surrounding the pool. Mr. Lowe responded that the stone wall surrounding the pool was 4 feet. Ms. Murray mentioned that they could work if the entire pool was surrounded with at least 4 feet of protection and had a working gate.

Mr. Pitts asked if the 4-foot stone wall surrounded the entire pool. Mr. Lowe stated that the stone wall was only on two sides.

Mr. Kastor asked when the regulations had changed in the Zoning Resolution regarding fence height surrounding a pool. Ms. Murray noted that the code changed in March 2020 to a 4-foot fence and automatic cover.

Mr. Bertsch stated that the Board is always setting precedent and it is a tough leap from 6-foot fence to 4-foot fence with an automatic cover to no fence. Mr. Bertsch stated that just was too much for him.

Mr. Lowe asked if anyone had asked other municipalities how or why they had switched rules.

Mr. Kastor stated that he works in construction and he understands that this is tough decision.

Mr. Bertsch made a motion to deny the variance request. Mr. Bixler seconded the motion based on staff reports. Roll Call: Mr. Bertsch, yes; Mr. Bixler, yes; Mr. Kastor, no; Mr. Spence, no; Mr. Pitts, yes. The Variance was denied.

Mr. Pitts noted that a fence permit will need to be pulled for 5510 Sandy Acres. Mr. Kastor also mentioned that Mr. Lowe had the option to appeal.

IV. Old Business

There was no old business to discuss.

V. New Business

The next meeting will be June 15th, 2020. Staff has a conditional use application for the outdoor display of goods and merchandise at 5918 Milan Road (Best Budget).

VI. Adjournment

Mr. Spence made a motion to adjourn. Mr. Bixler seconded the motion. All Board members were in agreement and the meeting was adjourned at 4:45 p.m.