

BOARD OF ZONING APPEALS

Village Green Municipal Building, Council Chambers
47 Hall Street
Thursday, July 9, 2020
6:30 P.M.

1. VARIANCE

Applicant: David Petrozzi
Location: 240 Whitaker Ave
Zoning: (PR) Planned Residential District
Request: Approval of a variance to reduce the required 30' rear setback line to 24.67', in order to construct a three-season room.

Aerial Site Image: <https://goo.gl/maps/2rwukzejTSF9czcq6>

Project Background

The applicant would like to build a screened in porch onto the back of his home, and is requesting a variance from the 30' setback requirement to complete the project. He has provided a narrative and images of the existing conditions, as well as a detailed plan of the addition to support this variance application.

Proposal Overview

The application proposal is to build a 20' by 16' three-season room with a fireplace off the rear (northwest side) of a two-story residence. Due to the shape of the lot, the proposed addition will protrude into the rear setback by 5.33'. The structure will stay clear of the 10' scenic easement that runs parallel to the rear property line. Other than the five-foot protrusion into the rear setback line, the proposal complies with the code.

Ordinance Review

In accordance with the requirements of codified ordinance 1127.05(a), the Board of Zoning Appeals may authorize upon appeal in specific cases such variance from the terms of this Zoning Ordinance as will not be contrary to the public interest where, owing to special conditions of the land and/or buildings that are unique to the property in question, and not self-created, a literal enforcement of the provisions of this Zoning Ordinance would result in deprivation of all beneficial use of the land.

Staff Comments

Staff believes that for this specific condition the applicant has experienced a practical difficulty due to the physical restrictions of the property. Due to the location of the site on a cul-de-sac, the curved building line forces the home to be placed further back on the property. The proposed addition conforms to the variance standards of section [1127.06](#) of the codified ordinances. Staff believes that the variance is not substantial, and that the addition will be beneficial to the property. It will not adversely affect the character of the neighborhood and the adjoining properties. Staff has not heard any objections to this property from other residents, and it is likely that the view of the addition will be blocked from neighboring properties due to the heavily wooded scenic easement and surrounding home alignments.

Staff Recommendation

Staff has reviewed the proposal and recommends approval of the variance as submitted.

2. VARIANCE

Applicant: Pete Johnston
Location: 229 Glenworth Court
Zoning: (PR) Planned Residential District
Request: Approval of a variance to locate a pool 12' from the property line within the existing drainage easement.

Aerial Site Image: <https://goo.gl/maps/gdCKkjFwnqri5qXm7>

Project Background

The applicant would like to install a swimming pool on his property, and is requesting a variance to the 12' distance requirement from the 10' utility easement. He has provided a narrative and design sketch to support this variance application.

Proposal Overview

The application proposal is to build a 24' by 12' swimming pool with a surrounding terrace in the backyard of the residence. The proposed pool design is located less than 12' from the utility easement that runs along the south, and the concrete or paver decking is planned to protrude into the easement by a couple feet. The property currently has no utilities placed in the utility easement.

Ordinance Review

In accordance with the requirements of codified ordinance 1127.05(a), the Board of Zoning Appeals may authorize upon appeal in specific cases such variance from the terms of this Zoning Ordinance as will not be contrary to the public interest where, owing to special conditions of the land and/or buildings that are unique to the property in question, and not self-created, a literal enforcement of the provisions of this Zoning Ordinance would result in deprivation of all beneficial use of the land.

Staff Comments

Staff believes that for this specific condition the applicant has experienced a practical difficulty due to the constraints of being positioned on a corner lot with an unused utility easement. Staff has worked with the applicant to come up with a compromise that allows for enough space for a small pool on the property, without vacating the utility easement. The easement provides the access to the utility easements on the neighboring properties to the east, and may potentially be needed in the future. Vacating the easement would make access to these properties more difficult. In order to keep the easement, Staff recommended getting a variance to allow a pool within the required 12' setback from the utility easement. The proposed position for the pool still maintains the 12' distance needed from the rear property line to satisfy Section 1147.06(b)(2) – Swimming Pools. The property to the south of the applicant's property also has a 10' utility easement, which when combined with the applicant's easement allows 20' for access (see attached plats). The proposal conforms to the variance standards of section [1127.06](#) of the codified ordinances. Staff believes that the variance is not substantial, and that the addition will be beneficial to the property. It will not adversely affect the character of the neighborhood and the adjoining properties. Staff has not heard any complaints for this proposal, and the applicant secured signatures for all property owners within 250' stating that they have no objection to the project.

Staff Recommendation

Staff has reviewed the proposal and recommends approval of the variance with the following conditions:

1. Covenants and restrictions need to be placed on the property stating that if easement use is needed, and the proposed fence and pool decking need to be removed, that the applicant is responsible for replacing.
2. A note is made that requires a temporary fence to be installed around the pool to satisfy the safety requirements of the Building Code in the event that the proposed fence needs to be dismantled to access the easement.