

Chairperson Michael Kunzer called the regular meeting of the Zoning Board of Appeals of the Town of Walworth to order at 7:00 PM. The members present were Michael Kunzer, Christine Kubida, Charles Buss, and Becky Appleman. Phil Williamson, Code Enforcement Officer was also present. Tiffany Paine-Cirincione, Zoning Board member, was absent at the beginning of the meeting due to technical and access difficulties. Due to the COVID-19 pandemic and to comply with CDC social distancing, the meeting was held at the Walworth Town Hall, accessible live to the public.

Chairperson Kunzer asked if there were any corrections to the minutes of November 2, 2020. Becky Appleman made a motion, seconded by Charles Buss, to approve the minutes of November 2, 2020 as corrected. All members were in favor. Motion carried.

Chairperson Kunzer addressed the first item on the Agenda.

1. Application of Matthew Dehmler is seeking an area variance for the property located at 3371 Heather Brook Lane that does not comply with the required setback. The applicant seeks relief from Section 180-17 (A) (2) to construct an above-ground pool and deck which will encroach into the required setback per the approved plans for the Heather Brook Subdivision Map, Section 1, dated May 17, 1993. Property is zoned PD- Planned Development. (Public Hearing)

Kristin and Matthew Dehmler came forward to speak before the Board. Ms. Dehmler said she and Mr. Dehmler would like to put an above-ground pool and deck on their property closer to the property line than the allowed setback. Mr. Dehmler said it is a corner lot and on the north side of the lot where the pool and deck could potentially be placed there is a drainage area.

Chairperson Kunzer asked if the proposed pool will be a 27-foot round pool on the south side of the property. Mr. Dehmler said it would be a 27-foot pool, and the deck would be 10 to 12 feet from Bayberry Lane. Chairperson Kunzer said there is a 40-foot setback to the road so the whole proposed pool and deck are in the 40-foot setback. Ms. Dehmler said she and Mr. Dehmler just poured a patio behind the house. Ms. Kubida asked if there is room behind the house. Mr. Dehmler said there is only 25 feet from the house to the rear property line so the only possible place may be behind the garage, but it would take up most of that area. Mr. Buss asked if it is possible to build in an easement. Chairperson Kunzer said nothing says you cannot build in an easement, but the structure could be torn down if the easement needed to be accessed. Mr. Druschel said there is room for the pool on the south side of the house inside the 40-foot setback. Chairperson Kunzer said Town Code 180-36 Swimming pools/hot tubs: A private swimming pool/hot tub installed or maintained as an accessory use shall conform to the following: A. Setback. It shall meet the minimum setback requirements for a structure in the district. Mr. Buss said the Zoning Board can give them relief from the code, but the deck is very close to the utility easement.

Chairperson Kunzer said the property is in a Planned Development and the restrictions on the subdivision map are not enforced by the Town, but a town resident could pursue a civil lawsuit against the homeowners if they do not like the placement of the pool and deck. Chairperson Kunzer said a pool floaty could blow into the road and cause an accident with the pool being so close to the road, and there are no other properties in the subdivision with a pool in a front yard. Mr. Druschel said there are sheds in front yards in a Planned Development which are also accessory structures. Chairperson Kunzer said the house setback per the survey is 41.3 feet with a 10-foot easement, so they only have 31.3 feet for the pool and deck with no room between the house and pool. Mr. Buss said they are looking for a 31.3-foot variance. Mr. Druschel said a normal side setback is 7.5 feet in this subdivision. Mr. Druschel said there needs to be distance from the house to the swimming pool so there is no lateral pressure on the foundation of the house. Chairperson Kunzer said if something bursts in the pool you would end up with all that water in the basement.

Tiffany Paine-Cirincione joined the meeting at 7:09 PM. Ms. Cirincione asked if the applicants explored other options for the pool size. Ms. Dehmler said they could consider other options. Mr. Druschel said the applicants could put the deck to the west or north side of the pool as to not encroach on the utility easement. Mr. Buss said the deck would be close to the road if it is placed in the proposed position. Mr. Dehmler said they could relocate the deck to another side of the pool. Ms. Kubida said she is concerned with the amount of space there is for the pool since the pool code for Walworth states there is no minimum distance that the pool must be from a structure. However, the pool must be a minimum 4 feet from any window, door or walking surface (decks, porch, etc.) that is not part of the pool barrier. Mr. Dehmler said the proposed location is the only location they have for a pool and deck due to the drainage area and setback requirements on the property, but they can reconfigure the deck size and location. Ms. Dehmler said she and Mr. Dehmler will work to revise their proposal.

Chairperson Kunzer asked if there were any more comments from the public. No issues were brought forward.

Chairperson Kunzer said sometimes lots do not allow for pools and decks to be built. Ms. Kubida said they are looking for a significant variance and they need to look at the amount of space they need from the house. Ms. Paine-Cirincione said the pool would be close to the road and if it did flood it could cause a problem. Chairperson Kunzer said the house is about 3 feet above the road grade so there would need to be a retaining wall built so the pool can be level. Ms. Appleman said you can not put a retaining wall in the easement. Chairperson Kunzer said an 18-foot pool behind the garage may be able to be approved.

Chairperson Kunzer asked if there were any more comments from the Board. No more issues were brought forward. Charles Buss made a motion, seconded by Becky Appleman, to table the application. All members were in favor.

Chairperson Kunzer adjourned the meeting at 7:36 PM.

Respectfully submitted,

Barbara Goulette, Clerk