

**MINUTES OF THE ZONING BOARD OF APPEALS**  
**February 9, 2015**

The regular meeting of the Zoning Board of Appeals was called to order by Chairman William Cotey at 7:00 p.m. at the Village Hall.

Members present: Chairman William Cotey, Dan Donahue, Amy Flores, Mark Moore, Walter Oakley, Kurt Schultz, and David Semmelman.

Members absent: None.

Village Staff present: John Spoden, Director of Community Development; David Smith, Senior Planner; and Fred Chung, Senior Project Engineer.

Board Member Oakley moved, seconded by Board Member Schultz, to approve the January 12, 2015, Zoning Board of Appeals meeting minutes.

Motion carried 7 - 0.

**OLD BUSINESS:**

**ZBA 14-21    Scott and Gayla Clawson, Applicants**  
**930-934 Sherborne Court**

**Request is for a variation to reduce the minimum required rear yard setback from 50 feet to approximately 20.4 feet in order to construct an addition to a single family residence in an R-3, Single Family Residential District.**

No further action is necessary as the Zoning Board of Appeals supported the Applicants' appeal of Staff's Zoning Code interpretation in Case No. ZBA 15-05. The Applicants have submitted their request to withdraw this item.

**NEW BUSINESS:**

**ZBA 15-06    Jeff and Sharon Humbert, Applicants**  
**1005 W. Golf Road**

**Request is for variations to: 1) reduce the minimum required side yard setback from 10 feet to approximately 6 feet; and 2) reduce the minimum required rear yard setback from 10 feet to approximately 6 feet in order to permit the location of a swimming pool and its deck located in an R-5, Single Family Residential District.**

**ZBA 15-07    Jeff and Sharon Humbert, Applicants**  
**1005 W. Golf Road**

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**Request is for a variation to increase the maximum permitted lot coverage from 45% to approximately 46.1% in order to permit the location of a swimming pool and its deck located in an R-5, Single Family Residential District.**

Mr. David Smith, Senior Planner, introduced the requested variations to the Zoning Board of Appeals. He stated that the petitioners are requesting approval for rear and side yard setback and lot coverage variations in order to permit the location of a swimming pool and its deck located in an R-5, Single Family Residential District at 1005 W. Golf Road. He stated that in September of 2013, the petitioners applied for a permit to construct an in-ground swimming pool to be located in their rear yard. He stated that the plans submitted by their contractor was Code compliant including meeting the minimum required setbacks and maximum permitted lot coverage. Mr. Smith stated that a building permit was then issued on October 1, 2013, and construction followed and upon a final inspection in August of 2014, Staff noted that the installation of the pool and its surrounding deck did not conform to the approved plan.

Mr. Smith stated that Staff requested that a new plat of survey be submitted to show the 'as-built' pool and its deck. He stated that upon review of the as-built survey, Staff noted that the pool deck has an approximate six (6') foot side yard setback from the east side property line, and rear property line. He stated that a minimum of ten (10') feet is required. He stated that Staff noted that the 'as-built' survey indicates a lot coverage of 46.1%; the Zoning Code allows a maximum lot coverage of 45%. He stated that the 1.1% excess lot coverage is approximately 121 square feet of impervious surface that exceeds the maximum permitted.

Ms. Sharon Humbert, petitioner, stated that the contractor added more concrete for the patio than was approved on the plan while they did not realize that it did not comply. She stated that it has been installed for over a year and it isn't fair to them that this was discovered after the fact.

Mr. Jeff Humbert, petitioner, stated that they also had drainage tile installed.

Chairman Cotey stated that Staff had review comments on the nonconforming shed location.

Mrs. Humbert stated that the shed was there when they bought the house.

Board Member Moore asked about the sequence of inspections and when the non-conformity was discovered. Mr. John Spoden, Director of Community Development, stated after an on-site final inspection was completed, Staff requested an as-built survey.

Board Member Donahue asked the petitioner if they were home when the pool and patio were being installed. Mrs. Humbert stated that they were not able to determine if the pool was installed incorrectly or not during its construction. She stated that there were multiple inspections because there were other problems caused by the contractor as well such as the electrical aspect of the pool installation. She stated that the contractor became unreachable after the work was done.

Board Member Donahue stated that it is unfortunate that anyone should be able to get away with this.

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Board Member Schultz stated that the actual location of the pool on both the approved plan and on the as-built survey seem to be very close. He stated that the bigger difference appears to be the changes of the deck and patio. He stated that the patio appears to be a lot larger on the as-built. He asked if the petitioner is willing to alleviate some of the excessive lot coverage by removing some of the concrete.

Mrs. Humbert stated that there was too much concrete already installed before they realized it was not Code compliant. She stated that it will be too expensive to remove any of the concrete.

Board Member Schultz stated that it appears that Staff is attempting to meet the petitioner half way by supporting the setback variations.

Chairman Cotey asked what had happened to the contractor that did the work. Mrs. Humbert stated that he just walked away.

Chairman Cotey stated that the petitioner should consider relocating the shed to be compliant.

Mr. Humbert stated that they have taken the concrete contractor to court and that this case is pending. He stated that the pool was set in the wrong spot by the contractor. He stated that they had problems with the electrical as well, but that Village Staff Bob Leavitt was very helpful during the electrical inspections.

Chairman Cotey reviewed the standards for variation. He stated that he would agree that this was not a self-created hardship. He stated that there does not appear to be a negative impact of the essential elements of the neighboring properties.

Board Member Moore stated that there appears to be a remedy for the excessive lot coverage by removing some of the excessive concrete incorrectly installed.

Chairman Cotey stated that the petitioner could saw cut some of the excessive concrete in order to reduce the excessive lot coverage.

Mr. Humbert stated that he would be concerned about the aesthetics of the patio or pool deck if he were to saw cut any of the concrete.

Chairman Cotey asked the petitioner what they would like for the Zoning Board of Appeals to do tonight. Mrs. Humbert stated that they would like for the Zoning Board of Appeals to give a positive recommendation for variation requests.

*In the matter of ZBA 15-06.1), Board Member Oakley moved, seconded by Board Member Semmelman, to recommend the Village Board of Trustees approve a variation to reduce the minimum required side yard setback from 10 feet to approximately 6 feet in order to permit the location of a swimming pool and its deck located in an R-5, Single Family Residential District, in accordance with the plans submitted.*

*Motion carried 6 - 1.*

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*Ayes: Cotey, Flores, Moore, Oakley, Schultz, Semmelman*  
*Nays: Donahue*  
*Absent: None*

*In the matter of ZBA 15-06.2), Board Member Oakley moved, seconded by Board Member Semmelman, to recommend the Village Board of Trustees approve a variation to reduce the minimum required rear yard setback from 10 feet to approximately 6 feet in order to permit the location of a swimming pool and its deck located in an R-5, Single Family Residential District, in accordance with the plans submitted.*

*Motion carried 6 - 1.*

*Ayes: Cotey, Flores, Moore, Oakley, Schultz, Semmelman*  
*Nays: Donahue*  
*Absent: None*

*In the matter of ZBA 15-07, Board Member Semmelman moved, seconded by Board Member Oakley, to recommend the Village Board of Trustees approve a variation to increase the maximum permitted lot coverage from 45% to approximately 46.1% in order to permit the location of a swimming pool and its deck located in an R-5, Single Family Residential District, in accordance with the plans submitted.*

*Motion carried 5 - 2.*

*Ayes: Cotey, Donahue, Flores, Oakley, Semmelman*  
*Nays: Moore, Schultz*  
*Absent: None*

**COMMUNICATIONS AND DISCUSSION:** None.

Board Member Moore moved, seconded by Board Member Oakley, to adjourn the Zoning Board of Appeals meeting.

Motion carried 7 - 0.

Meeting adjourned at 7:35 p.m.