

AUDIO FOR JULY 2, 2015, NEVER FOUND. MINUTES ARE DONE FROM NOTES.

**TOWN OF STONY POINT
ZONING BOARD OF APPEALS
Minutes of July 2, 2015**

PRESENT:

Mr. Anginoli
Mr. Keegan
Mr. Casscles
Mr. Vasti, Acting Chairman
Mr. Fox
Mr. Porath (absent)

ALSO PRESENT:

Dave McCartney, Attorney

Chairman Wright (absent)

Chairman Wright: Good evening. I see by the clock it is 7:00 PM. I will call this meeting of the Zoning Board of Appeals of the Town of Stony Point to order; please rise for the Pledge of Allegiance.

On the agenda tonight is the public hearing/decision for Michelle Burns.

Request of Michelle Burns - Appl # 2015-0004

A variance from the requirements of Chapter 215, Article XIV, Section 94-D.1-C: Less than required front setback (corner Lot), required 19.8 feet provided 8.0 feet; to install an above ground pool in the front yard: variance for a 6 foot high fence in the front yard (corner lot) as per Chapter 215, Article VI, Section 24 C of the Stony Point Code at premises location at 35 Minerick Drive, Stony Point, New York

Section 20.07 Block 1 Lot 21 Zone R1

*****MOTION: Mr. Casscles made a motion to close the public hearing; seconded by Mr. Keegan. Hearing all in favor; the motion was carried.**

*****MOTION: Mr. Fox offered the following resolution; seconded by Mr. Casscles.**

In the Matter of Application #15-04 of Michelle Burns for a variance from the requirements of the Town of Stony Point Zoning Code Chapter 215, Article XIV, Section 94-D.1-C Less than required front setback (corner lot), required 19.8 feet, provided 8.0 feet for the installation, maintenance and use of an above ground pool in the front yard; and Chapter 215, Article VI, Section 24C for the installation, maintenance and use of a 6 foot high fence in the front yard (corner lot) , at premises located at 35 Minerick Drive, Stony Point, New York, designated on the Tax Map as Section 20.07, Block 1, Lot 21.

The premises which are the subject of this application are located in an R1 Zoning District.

The applicant represented herself and the following documents were placed into the record and duly considered:

Application; Building Department denial letter dated May 5, 2015; Survey and Plans regarding pool location; updated plans showing fence location submitted on or about June 9, 2015; June 9, 2015 letter from Building Inspector.

Additionally, members of the Zoning Board of Appeals personally visited the applicant's property and viewed it and the neighboring properties on June 19, 2015.

WHEREAS, the proposed action is a Type II action under the regulations promulgated pursuant to the New York State Environmental Quality Review Act; and

WHEREAS, a public hearing was held and initially closed on June 4, 2015, was reopened on June 18, 2015, and continued on July 2, 2015, after proper re-noticing and posting in regard to the amendment of the application to include the requested variance regarding the fence, and the testimony of the following persons was duly considered: Applicant.

WHEREAS, all the evidence and testimony was carefully considered and the Zoning Board of Appeals has made the following findings of fact:

The applicant is the owner of the subject parcel located at 35 Minerick Drive, which is a corner lot at the intersection of Janet Place. The applicant seeks relief from this Board to permit the construction, maintenance, and use of an above-ground pool on the southeast quadrant of her property. Since the home sits on a corner lot, it has two front yards under the Code. Therefore, the proposed location of the pool, even though in her back, side yard, is technically also in the front yard along Janet Place.

The applicant originally sought approval for a 16' x 24' above-ground pool, but subsequently amended her application to seek approval for a n 18 foot round pool, 4 feet 6 inches deep. At its closest point to the property line along Janet Place, the pool comes within 8 feet of the property line, whereas 19.8 feet are required for the front setback. Therefore, the applicant needs a variance to permit the construction of the pool.

There was no evidence the pool could be placed at any other location on the property and no evidence that it could be made any smaller and still provide the benefits sought by the applicant.

A fence is required for safety around the pool area, and there is currently a six-foot fence surrounding approximately half the property, surrounding what the applicant considers to be the rear yard. That fence would completely block the view of the pool from the street, serving to mitigate any potential negatives in regard to the pool being technically in a part of the front yard on Janet Place. However, because this is a corner lot, a portion of the six-foot fence is actually in the front yard on Janet Place as well, and, therefore, is contrary to Code, s only four-foot high fences are permitted in the front yard. Accordingly, the applicant amended the application before this Board to include a request for an appropriate variance to also permit the existing fence to remain as it is been located for many years. The applicant provided a new survey detailing the exact location and height of the fence on or about June 9, 2015. The fence has been in place for many years and Board members visited the property and found there to be no sight obstruction at all created by the fence in regard to the intersection of Janet Place and Minerick Drive.

No objections to the variances sought were received.

WHEREAS, this Board has examined the written documentation and reviewed the testimony with respect to the applicant's request for a variance, and, pursuant to the requirements of section 267-b.3 of the Town Law, hereby finds that the benefit to the applicant if the variance is granted outweighs an detriment to the health, safety and welfare of the neighborhood or community by such a grant, on certain conditions as set forth herein, and has made the following findings and conclusions in that regard:

(1) “whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance”:

There is no evidence presented that the proposed variance would produce any undesirable change in the character of the neighborhood or a detriment to any nearby properties.

(2) “whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance”;

No evidence was presented of any feasible alternatives that would achieve all of the benefits sought by the applicant.

(3) “whether the requested area variance is substantial”:

The variance is substantial.

(4) “whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district”:

There is no evidence before this Board of any adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

(5) “whether the alleged difficulty was self-created”:

The alleged difficulty was self created.

NOW, THEREFORE, BE IT RESOLVED, that the application for a variance as set forth above is hereby approved on the following conditions:

1. The pool shall be limited to an 18 foot diameter round pool, 4 feet 6 inches deep.

The matter is remanded to the Building Inspector for further consideration in compliance with all other applicable laws, rules and regulations.

Upon roll call, the vote was as follows: Mr. Anginoli, yes; Mr. Keegan, yes; Mr. Casscles, yes; Acting Chairman Vasti, yes; Mr. Fox, yes; Mr. Porath, absent; and Chairman Wright, absent.

AT THIS POINT FIRE INSPECTOR THOMAS LARKIN SPOKE TO THE BOARD.

*****MOTION: Mr. Fox made a motion to adjourn the meeting of July 2, 2015. Hearing all in favor; the motion was carried.**

Respectfully submitted,

Minutes by Cathy Finnerty and
transcribed by Kathy Kivlehan