

**TOWN OF STONY POINT  
ZONING BOARD OF APPEALS  
Minutes of April 7, 2022**

**PRESENT:**

Mr. Keegan  
Mr. Anginoli  
Mr. Lynch  
Mr. Strieter  
Mr. Gazzola  
Ms. Davis  
Chairman Wright

**ALSO PRESENT:**

Dave MacCartney, Attorney  
John Hager, Building Inspector

**Chairman Wright:** Good evening. Welcome to the Stony Point Zoning Board of Appeals. I call this meeting of April 7, 2022, to order. Please rise for the Pledge of Allegiance.

The Pledge of Allegiance was recited, and roll call taken.

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Chairman Wright starts the meeting with the decision for the request of Owen Drummond – 30 Johnson Dr – App. #22-03 (Area Variance)

Chapter 215, Article V, section 15 A - 215 attachment 15; Table of Bulk Requirements Part 1A, use d.3, column 4; Minimum 40 feet front yard depth and setback required - 16.8 feet front yard depth provided - 23.2 feet variance necessary.

Chapter 215, Article VI. Supplementary Yard and Setback Requirements, section 215-22 General Requirements. Accessory structures and uses are permitted within the required setback other than the front setback but not within any required yard. Accessory pool front yard variance necessary.

Chapter 215, Article VI. Yard and set back exceptions, section 215–24 C a fence or wall no more than 4 feet high is permitted along any lot line. 6-foot-high fence proposed in front yard. 2-foot fence height variance necessary.

**\*\*\*MOTION: Ms. Davis offered the following resolution; seconded by Mr. Strieter:**

In the Matter of Application #22-03 of Owen Drummond for area variances from the requirements of Chapter 215, Article V, section 15 A-215 attachment 15, Table of Bulk Requirements Part 1A, use d.3, column 4: Minimum 40 feet front yard depth and setback required - 16.8 feet front yard depth provided - 23.2 feet variance necessary; Chapter 215, Article VI, Supplementary Yard and Setback Requirements, section 215-22 General Requirements, Accessory structures and uses are permitted within the required setback other than the front setback but not within any required yard: variance requested to permit accessory pool in front yard; Chapter 215, Article VI, Yard and set back exceptions, section 215–24 C, to permit a fence 6 feet high on the front lot line, whereas the Code permits a maximum of 4 feet, on premises located at 30 Johnson Drive, Stony Point, New York, designated on the Tax Map as Section: 14.04 Block: 3 Lot: 1 in the RR Zoning District.

WHEREAS, the applicant was represented by Jordan Barry of Westrock Pools; and

WHEREAS, members of the Zoning Board of Appeals personally visited the applicant's property and viewed it and the neighboring properties on or about March 19, 2022; and

WHEREAS, this is a Type II Action pursuant to the New York State Environmental Quality Review Act; and

WHEREAS, a public hearing was held on March 3, 2022 and the testimony of the following persons was duly considered: applicant and Jordan Barry; and

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

The applicant owns the subject parcel located at 30 Johnson Drive. The property is improved with an existing two-story single-family dwelling located on the front, left side of the lot as viewed from Johnson Drive. The property has approximately 123 feet of frontage on Johnson Drive, and has a small frontage on Route 210 measuring just over 24 feet. The property is unique in that among other things a substantial part of the rear yard of the premises is burdened with a utility easement granted to Orange and Rockland Utilities. There are high tension power lines and towers that run through the easement in the backyard. The utility easement comes within just a few feet of the right rear corner of the existing single-family dwelling.

The applicant now desires to construct a modestly sized inground pool on the premises. Were the property not burdened by the substantial utility easement, there would otherwise be plenty of room to locate the pool in the rear yard without any variances. However, the utility easement prohibits the placement of the pool in that area, so the only available spot for a pool is to the right side of the house. Because of the angle of the utility easement, the applicant cannot place the pool directly to the right of the house in the side or rear yard; rather, the only place it can be located is in the prohibited front yard and front yard setback.

Accordingly, the applicant applied for area variances allowing the pool to be located in a spot parallel with the road, which brought it within 16.8 feet from the property line on the front, right side of the pool and 24.9 feet on the front left of the pool, all as shown on the plans dated October 26, 2021. The applicant also seeks to install a privacy fence 6 feet tall, but a maximum fence height of 4 feet is permitted in the location requested, so a variance was requested for that condition as well.

During the course of the public hearing, the applicant was questioned rigorously by the Board in regard to other potential configurations and locations for the pool that would require less of a variance. The applicant was also requested to consider various screening mechanisms.

Consequently, the applicant redesigned the location of the pool and submitted new plans dated last revised March 6, 2022. Therein, the applicant shifted the pool farther back from the front property line and rotated it clockwise, so the long end of the pool was roughly parallel with the easement line instead of the road and house. The new plans brought the front left of the pool much farther back from the front property line than it had been (it is now 39.5' compared to the original 24.9'), and brought the front right of the pool back to a distance of 19.4' (compared to the original 16.8' shown). The applicant also showed on the updated plans various proposed screening devices, including at least 17 Arborvitae just inside the fence line, all as shown on the plan.

There were no objections to the relief sought.

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 on the conditions stated herein, the benefit to the applicant if the variance is granted outweighs any detriment to the health, safety and welfare of the neighborhood or community by such a grant, and has made the following findings and conclusions in that regard:

(1) There is no evidence presented that the proposed variances would produce an undesirable change in the character of the neighborhood or a detriment to any nearby properties, based on the updated plans submitted dated last revised March 6, 2022. The original plans brought a substantial portion of the pool too far into the front yard and to close the front property line and would've caused a negative impact. However, the changes to the location and configuration of the pool on the revised plans substantially mitigated the adverse impacts inherent in locating a pool in the prohibited front yard.

(2) There was no evidence presented of other feasible means to achieve the benefit sought without a variance. The utility easement and topography of the property provide an absolute barrier to locating the pool in any location other than the one set forth in the redesigned plans dated last revised March 6, 2022.

(3) The variances sought are substantial, but that factor alone does not require a denial under these circumstances given the site topography here.

(4) 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) The alleged difficulty was self-created.

NOW, THEREFORE, BE IT RESOLVED, that the application for variances sought, as amended during the public hearing and as depicted on the plans dated last revised March 6, 2022, are hereby approved (permitting a pool within 19.4 feet of the front property line on its front, right side, and permitting a fence 6 feet tall in the location set forth in the March 6, 2022 plans) on the following conditions:

**CONDITIONS:**

1. The applicant shall comply substantially and in all respects with the plans dated last revised March 6, 2022.

2. The applicant shall comply with all other applicable laws, rules, codes, and regulations.

The matter is remanded to the Building Inspector for further consideration in compliance with the terms and conditions hereof.

**\*The following vote was taken: Gazzola-yes; Keegan-no; Anginoli-yes; Lynch-yes; Streiter-yes; Davis-yes.**

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**\*\*\*MOTION: Mr. Anginoli made a motion to go into executive session; seconded by Mr. Keegan. All in favor; the motion was carried.**

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**\*\*\*MOTION: Ms. Davis made a motion to return from executive session; seconded by Mr. Lynch. All in favor; the motion was carried.**

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**\*\*\*MOTION: Ms. Davis made a motion to adjourn the meeting of April 7, 2022; seconded by Mr. Lynch. All in favor; the motion was carried.**

Respectfully submitted,

*Nicole Pechin*

Secretary  
Zoning Board of Appeals