

**City of Oconomowoc
Zoning Board of Appeals Minutes – July 20, 2020**

The Deputy Clerk called the meeting to order at 6:00 pm and confirmed that appropriate notice was given.

Members Present: Mark Gempeler, Kyle Driscoll, Ken Brotheridge and Bob Morgan

Staff Present: Jason Gallo and Tina Wallace

2. Nominate/act on Chairperson pro tem: Motion by Morgan to nominate Board Member Kenneth Brotheridge as Chairperson pro-tem; second by Driscoll. Motion carried 4-0.

3. Approve Minutes of June 3, 2020: Motion by Gempeler to approve the June 3, 2020 minutes; second by Morgan. Motion carried 4-0.

4. Reynen Public Hearing – 6:01 PM: The purpose of the hearing is to hear public comment on application filed by Jill Riley for a variance at 1286 Lily Road, from Section 17.111(8) Swimming Pool Standards, Sub-section (b) that requires pools to be located a minimum of ten (10) feet from any lot line or building. The proposed pool would be 5.5' from the north lot line and 5.5' from the house. A variance of 4.5' is required to allow the pool to be located with the required setbacks from the property line and the house.

Brotheridge opened the public hearing at 6:01 pm and swore in the property owner, Jill Riley, Kevin Kurtz and Vickie Gertz and Jason Gallo, City Planner. Gallo gave a power point presentation on the applicant's variance request. He stated this is for an area variance. They are asking for a waiver of an ordinance from Section 17.111(8) Swimming Pool Standards for the property at 1286 Lily Rd. This is regarding installation of a permanent above-ground pool 24' round pool. The City requires a 10' setback from side property lines and 10' setback from house. The applicant would like to encroach 4.5' into those setbacks. The property is a corner lot. The rear and side yards are fenced with a 6' tall board-on-board fencing. The proposed pool will not be visible from the road. The pool will comply with the 10' required setback from the west lot line where the Utility easement exists. Gallo gave a brief history of the property. Planning received letters of support from the adjacent property owners to the west and northwest. Gallo stated in order for the Zoning Board of Appeals to grant a variance there is a three-part test. The applicant has the burden of proof to demonstrate that all three criteria defined in the state statute requirements are met: 1) is unique physical property limitations are existing; 2) no harm to public interests; and 3) unnecessary burden on the owner if it's not granted. Planning Staff finds the property contains unique physical property limitations, no harm to public interest and there is unnecessary burden placed on the applicant. Gallo concluded the Board has 5 alternatives to granting a variance: approve the request as submitted, deny request, approve the request in part, approve the request with conditions as determined, or postpone action. The Board should consider have they exhausted all other means; would a text amendment be a better solution and will granting this various set a precedent. The Board should consider the application, evidence during the public hearing, staff report, photos, letters and emails. Planning Staff recommends approval of the variance at 1286 Lily Rd with the following conditions: 1) Pool & accessories shall be outside of the 10' easement; 2) Owner shall pay for removal & new electric lines; 3) Applicant shall obtain a pool permit from the City; and 4) No pool filters or pumps within 20' of side lot lines.

Jill Riley stated she will comply with all the proposed 4 conditions. She handed out an email from the pool company, Patio Pleasures regarding pool inventory. She stated there are no pools available in southeastern Wisconsin other than the 24' she purchased. She is adding electric service to keep the pool heated during the October/November months. The equipment will be facing the east to Lily Rd or facing south towards to Heather Cir. She stated there is no other place on the property to put the pool. The pool will not be for social use but used as a therapy pool. She does not want to join a health club with the pandemic occurring and the therapy is required.

Kevin Kurtz, neighbor directly north, stated he is requesting denial due to several concerns he has. He handed out a packet of information containing an email from Patio Pleasures, a list of above ground pools available through Amazon and photos. His concerns are the location, breaching of the pool, the size, splashing, chemicals hurting his flowers and outdoor seating in his yard.

Vickie Gertz stated she is not in support of the pool. She is concerned about the maintenance and size of the pool.

In rebuttal, Riley stated she will maintain the pool. Her neighbor's seating location is their choice. She is not interested in purchasing a pool of reduced quality from Amazon. She wants a reputable company with a better warranty.

No additional public comments were received. The public hearing closed at 7:02 pm.

5. Consider/act on the application request of Jill Riley for a variance of 4.5' that would allow a pool to be located 5.5' from the north lot line and 5.5' from the existing house located at 1286 Lily Road.

The Commissioner's discussed the setbacks, different size pools available and postponing for the applicant to obtain more information. The Commission recognized the concerns expressed by the neighbors, but also see the potential need for the pool.

Motion by Driscoll to postpone action on the application for 30 days to give the applicant time to address the neighbor's concerns and questions of the Board; second by Gempeler. Motion carried 4-0.

Motion by Gempeler to adjourn the meeting of the Zoning Board of Appeals; second by Morgan. Motion carried 4-0. The meeting adjourned at 7:14 pm.

Tina Wallace, Deputy City Clerk

