

MINUTES OF THE CHESHIRE ZONING BOARD OF APPEALS, MEETING HELD ON MONDAY, DECEMBER 4, 2017 AT 7:30 P.M. IN COUNCIL CHAMBERS, TOWN HALL, 84 SOUTH MAIN STREET, CHESHIRE CT 06410.

Present

Marion Nero, Acting Chair; John Pepper, Breina Schain; Agnes White.

Alternates: Jackie Cianci, Gerald Devine. Douglas Noble. Ms. Cianci is the alternate for this meeting. Staff: James Fasano, Zoning Enforcement Officer/Inland Wetlands Agent.

I. CALL TO ORDER.

Ms. Nero called the meeting to order at 7:31 p.m. and read the fire safety announcement for the record.

II. ROLL CALL

The clerk called the roll.

III. DETERMINATION OF QUORUM

Following roll call, a quorum was determined to be present.

IV. PLEDGE OF ALLEGIANCE

The group Pledged Allegiance to the Flag.

V. ACCEPTANCE OF MINUTES – October 2, 2017

MOTION by Ms. White; seconded by Ms. Cianci.

MOVED that the ZBA accept and approve the minutes of October 2, 2017 subject to corrections, additions, deletions.

VOTE The motion passed unanimously by those present.

VI. COMMUNICATIONS

1. CFPZA Quarterly Newsletter Fall 2017, Volume XXI, Issue 4

VII. ELECTION OF OFFICERS – postponed to January 2018 meeting

VIII. APPROVAL OF 2018 MEETING DATES

MOTION by Ms. Schain; seconded by Ms. Cianci

MOVED that the ZBA approve the 2018 Meeting Dates as follows:

2018 – January 3, February 5, March 5, April 2, May 7, June 4, July 2, August 6, September 5, October 1, November 5, December 3, and January 7, 2019.

VOTE The motion passed unanimously by those present.

IX. PUBLIC HEARING

Ronak Patel

2017-12-01

PH 12/4/17

1003 Lake Percival Way

MAD 02/07/18

Requesting a variance of Section 44.4 Dimensional Requirements for Planned Residential Subdivision Development; Requesting a 14' foot variance of The required 50'foot setback in an R-40 Zone For an in-ground pool.

Mr. Pepper read the call of public hearing into the record of the meeting.

The application of Ronak Patel, 1003 Percival Way, Cheshire CT 06410, requesting a variance of Section 44.4 Dimensional Requirements for Planned Residential Subdivision Development, requesting at 14'foot variance of the required 50' foot setback in an R-40 zone for an in-ground swimming pool. The resulting setback requested is 36' feet. The property is located at 1003 Lake Percival Way, Cheshire CT 06410, as generally shown on Assessor's Map No. 26, Lot No. 14, in an R-40 zone. The application is on file and available for public inspection in the Planning Department, 84 South Main Street, Cheshire CT 06410.

Ms. Nero reported that the applicant submitted an A-2 Survey and it is part of the record.

The applicant, Ronak Patel, 1003 Percival Way, Cheshire CT 06410, presented his application for a 14 foot variance of the required 50 foot setback in an R-40 zone in order to install an in-ground pool. This results in a 36 foot setback. Mr. Patel said the pool will not affect the character of the neighborhood, is not visible from the street or neighboring yards or the PUD. In the fall and winter there will be some slight visibility of the pool, but in the summer the pool will not be visible due to trees and vegetation. The nearest neighbor's house is 200 feet with trees and brush in between.

Mr. Patel cited the "hardship" as the uniqueness of the property, the PUD/condo type housing, limited use of personal use and area for the pool, additional houses to be built in the PUD, the topography of the PUD, wetlands, 50 foot upland review area dictates the placement of the road coming in resulting in location of the homes coming into the PUD, and the 50 foot setback due to the PUD.

Photographs of the placement of the house and subject property were submitted by Mr. Patel for the file. The photos show the little area between his house and setback line.

He said there is no other place to install the pool except in the setback area, or in front of the house.

Ms. Schain said she visited the property, could see other houses in the back through the brush, and they are in view at this time of year. She noticed the Patel land had wire structure and poles, and asked if this is where the pool will be located.

Mr. Patel said the poles are for patio lighting; the pool would be in this area, not as far back, but closer to the house.

Stating she saw a slope, Ms. Schain asked about landfill, the depth of the pool, where the 14 foot variance is coming from, the back end or side.

Mr. Patel said the variance is coming from the back end; the pool will be 8 feet deep; there will be fencing around the pool and entire property.

Ms. Schain asked about the width of the pool, if it could be smaller, and runoff from the pool.

The pool is 14 feet wide, and Mr. Patel said it is in the setback. He could have a smaller, 12 foot pool which would need a 12 foot variance. There will be no runoff from the pool, as there will be drains hooked up to the pool.

Mr. Devine asked about the pool being placed in the back yard, knows there is some problem with slopes, and if the pool would be obvious.

The Board was told by Mr. Patel that the pool will be in the back of the house, and the front of the house is the only area where setbacks would not be required.

Ms. White asked about the number of houses in the PUD at this time.

There is only one house there now, and Mr. Patel said it is his house, and the plan is to build four more. His house is the corner house.

When the home was purchased, Ms. Schain asked Mr. Patel if he considered having a pool as crucial to the home.

Mr. Patel said when the house was purchased, he did not know he would want a pool for his family. Now, they want a pool and enjoy swimming, and use the community pool.

With regard to the 40 foot setback in an R-40 zone, Ms. Nero asked about the 50 foot setback with this application.

Mr. Fasano explained that this is a PUD, one large parcel of land, and it has a 50 foot setback rather than 40 foot setback requirement. This is why the applicant is before the Board for a variance. Otherwise, Mr. Patel would need only a 4 foot variance.

Regarding the PUD, Mr. Devine asked if it was associated with the former property owner known as Percival Estates. He also asked about the development of the PUD and if Mr. Patel knew neighbors would be close by his home.

Mr. Patel said the PUD property is part of Percival Estates. There is a neighbor behind him, and there will be neighbors in the new houses.

The issue of the Patel subject property address at 1001 Jarvis Street was questioned by Mr. Schain.

Mr. Patel noted that zoning had different addressed, and he had to notify everyone for 1001 Jarvis Street, as this was the original address before renumbering.

The Board was informed by Mr. Fasano that this is a private driveway, the Patel house is in the corner of the hill and set back. There are plans for two houses forward of the Patel house.

Mr. Patel said there will be two houses on the side and two along the water.

Ms. Nero talked about the back of the house, if anyone was behind the Patel house, or if it is all open.

According to Mr. Patel there is 955 Jarvis Street there, about 200 feet from his house. In the winter his yard can be seen, but in the summer the yard cannot be seen.

Stating she could see two houses, Ms. Schain asked about additional foliage close to and around the pool.

Mr. Patel said there will be arbor vides planted along with other landscaping.

Mr. Noble asked if the Patel Family has talked to neighbors about the variance and pool and if there are any issues.

Mr. Patel said he has contacted neighbors; there are no problems; and one neighbor has a pool on his property.

THERE WERE NO FURTHER QUESTIONS OR COMMENTS; THE PUBLIC HEARING WAS CLOSED.

X. DECISION MAKING SESSION

Ronak Patel

2017-12-01

PH 12/4/17

1003 Lake Percival Way

MAD 02/07/18

Requesting a variance of Section 44.4 Dimensional Requirements for Planned Residential Subdivision Development; Requesting a 14' foot variance of The required 50'foot setback in an R-40 Zone For an in-ground pool.

The application of Ronak Patel, 1003 Percival Way, Cheshire CT 06410, requesting a variance of Section 44.4 Dimensional Requirements for Planned Residential Subdivision Development, requesting at 14'foot variance of the required 50' foot setback in an R-40 zone for an in-ground swimming pool. The resulting setback requested is 36' feet. The property is located at 1003 Lake Percival Way, Cheshire CT 06410, as generally shown on Assessor's Map No. 26, Lot No. 14, in an R-40 zone. The application is on file and available for public inspection in the Planning Department, 84 South Main Street, Cheshire CT 06410.

Discussion

Ms. Schain stated that having seen the property and hearing Mr. Patel's presentation, she would approve the variance. This is a private area; it meets the hardship guidelines; the pool cannot be placed anywhere else on the property due to wetlands; and she is in favor of granting the variance.

Ms. Nero said she is inclined to approve the variance request due to the 50 foot setback when other R-40 zones have a 40 foot setback, and the uniqueness of this property. She believes there is a hardship, and would vote in favor of the variance.

Mr. Pepper commented on the issue of hardship, placing a large house on a small lot, but does not see a major objection to approving this variance request.

Ms. White stated she is in favor of granting the variance.

Ms. Cianci stated her agreement with comments of other Board members. This is an upscale neighborhood; another neighbor has a pool; and she would approve the variance request.

MOTION by Mr. Pepper; seconded by Ms. Schain.

MOVED that the Zoning Board of Appeals grants the variance of Section 44.4 Dimensional Requirements for Planned Residential Subdivision Development (PUD),

requesting a 14 foot variance of the required 50 foot setback in an R-40 zone for an in-ground swimming pool. The resulting setback requested is 36 feet. The property is located at 1003 Lake Percival Way, Cheshire CT 06410, as generally shown on Assessor's Map No. 26, Lot No. 14, in an R-40 zone.

Based upon the evidence presented at the public hearing and the general knowledge of the members of the Board, it is here by found:

That a hardship exists to the property which is not applicable to other properties in the district, and that to strictly apply the Zoning Regulations would deprive the applicant of rights commonly enjoyed by other properties in the same district.

That the variance is the minimum variance that will make possible the reasonable use of the land.

That the variance will not result in injury to the neighborhood or public welfare; and that granting of the variance will not confer upon the applicant any special privilege.

The scope of this variance is limited to that which is indicated in the plans and documents presented at this meeting dated December 4, 2017.

VOTE The motion passed unanimously by those present.

Ms. Nero informed the applicant that the variance has been approved; it does not become effective until filed on the land records of the Town of Cheshire; this is the responsibility of the applicant. For any questions or concerns, the applicant can contact the Planning Department, and the applicant will receive information on the variance in the mail from the Planning Department.

XI. OTHER ZONING BOARD OF APPEALS BUSINESS

XII. CHAIRMAN'S REPORT

XIII. ADJOURNMENT

MOTION by Mr. Pepper; seconded by Ms. Schain.

MOVED to adjourn the meeting at 8:00 p.m.

VOTE The motion passed unanimously by those present.

Attest:

Marilyn W. Milton, Clerk

