



BOARD OF ZONING APPEALS

Minutes

**Brownsburg Town Hall
61 North Green Street
Brownsburg, Indiana 46112**

Monday, September 10, 2018

The Brownsburg Board of Zoning Appeals convened at 7:00 PM with a moment of silence and the Pledge of Allegiance. Mike Arnould opened the meeting, and a roll call was taken.

Members Present: Michael Arnould, David Emery, Claire Rutledge-Sakha, Brett Scowden and Chris Keeslar

Members Absent: None

Also Present: Todd Barker, AICP - Director of Development Services, Joe Y. James, AICP- Senior Planner, David Wilson- Planner II and Heather Wetzels- Administrative Assistant

A. CALL TO ORDER AND DETERMINATION OF QUORUM

B. MOMENT OF SILENCE & PLEDGE OF ALLEGIANCE

C. CONSIDERATION OF PREVIOUS MINUTES

1. August 13, 2018- Regular Meeting

Motion: Claire Rutledge-Sakha made a motion to **APPROVE** the August 13, 2018 minutes, seconded by David Emery, motion carried 5 In Favor/0 Opposed/0 Abstained.

D. FINDINGS OF FACT AND REPORTS OF DETERMINATION

1. None

E. RECOMMENDED CONTINUANCES

1. None

G. OLD BUSINESS

1. None

H. NEW BUSINESS

1. BZDV-08-18-1665 6880 Ethens Glen Dr. Rear Yard Setback

A request for a Development Standards Variance from the Village of Heritage Hills Planned Development Ordinance 2010-27 Sec. 2.05(9) "Minimum Rear Yard Setback," to decrease the minimum distance to the exterior property line within the Village of Heritage Hills Planned Development (PD) District.

Parcel(s): 32-07-27-427-007.000-035

ADVERTISED PUBLIC HEARING

Represented by: Bill Lambert, Perma Pools Corp.

Bill Lambert appeared before the Board on behalf of homeowner David Holt and family. He was there to request a variance from the zoning ordinance in order to put in a 13 ft. by 30½ ft. in-ground pool and 1,200 sq. ft. pool deck. Mr. Lambert said that there was a 30 ft. rear yard setback along exterior property lines and they wanted to encroach upon that by 4 ft. in order to make the pool improvements. He reviewed the Findings of Fact and said that the request would not be injurious to the public health, safety, morals or general welfare of the community as the drainage would continue to flow in the same manner. The pool would be 26 ft. off of the rear property line and 30 ft. from the side yards. Water would drain in the same manner as it currently did. The drainage easement encroachment request was approved by the Hendricks County Drainage Board. Mr. Lambert said that Mr. Holt had hired a professional pool company and would be using an automatic safety cover which met state code requirements. The pool would operate in a safe manner. Mr. Lambert said that adjacent neighbors would not be adversely affected. The pool was small and built at grade. It would not be visible to others. Mr. Lambert also said there was a dense tree line and the pool would not be observable in the rear and there were 30+ ft. to the side yards. The strict application of the ordinance would result in the pool not being built. There was only 4 ft. between a screened-in porch and the pool, then the 13 ft. pool and 4 ft. feet of concrete. They have kept this as far off the back property line as they could.

Joe James reviewed the case for the Board and immediately noted that the variance being requested was from the Heritage Hills Planned Development (PD) Ordinance and not the Unified Development Ordinance. Mr. James said that the Board had heard a case earlier that year where a variance had been granted from another PD. Staff thought that was the correct way to go versus amending the PD for the whole subdivision. This was a site specific request for that one lot. Mr. James confirmed that the Applicant did have to get an encroachment agreement to encroach into the Regulated Drainage Easement. There were several conditions for the encroachment agreement including a requirement to video the drain before and after the pool was constructed to make sure it was still functioning properly, the contractor must enter the property from the front on the east side of the house and must put down steel plates to protect the drains running through the front yard, the home owner assumed all the risk and cost if there were damages to the County drain due to installation of the pool and/or if necessary maintenance or reconstruction of the drain caused damages to the pool. Mr. James said that only part of the back yard triggered the request because that part of the lot was adjacent to non-subdivision property and had the 30 ft. requirement. The rest of the backyard was only subject to a 15 ft. setback.

Staff recommended approval with the following recommendations:

- (1) The Development Standards Variance be valid for the subject property and that swimming pool and deck be allowed to encroach into the required rear yard setback by four (4) feet.
- (2) The variance approval shall expire on September 10, 2020, two years from the date of approval if a building permit for the proposed improvements has not been submitted.
- (3) Full compliance with the terms and conditions of the Hendricks County Drainage Board approval letter dated 08/22/2018.
- (4) Full compliance with the terms and conditions of the Hendricks County Regulated Drain Encroachment Agreement dated 08/24/2018.

(5) The TECH Review Minutes, dated 08/23/2018; the Applicant's Detailed Statement of Reasons dated 08/23/2018; and the Applicant's site plan dated 08/15/2018.

(6) The approval of the Findings of Fact and Conclusions of Law.

ADVERTISED PUBLIC HEARING OPENED

Brett Scowden asked if the neighborhood had a Homeowners Association (HOA) and if any other restrictions applied. David Holt said they did have an HOA and that he had gotten approval from the HOA President.

Mr. Scowden asked for clarification on how many lots in the subdivision were subject to the 30 ft. setback requirement. Mr. James said the PD had a definition of perimeter lots and David Wilson showed the Board on the aerial which lots had this requirement. He stated that the requirement did not apply along Brigham Bay because that was common area in the rear of those lots.

Mr. Scowden received confirmation there was no issue with lot coverage.

Mr. Wilson told the Board that HOA approval was one item the Building Services Coordinator looked for whenever a pool permit was pulled.

ADVERTISED PUBLIC HEARING CLOSED

Motion: David Emery made a motion to **APPROVE** BZDV-08-18-1665 subject to and conditioned upon staff recommendations, seconded by Claire Rutledge-Sakha, motion carried 5 In Favor/0 Opposed/0 Abstained.

H. REPORTS FROM OFFICERS, COMMITTEES, AND STAFF

1. None

I. COMMUNICATIONS & BILLS

1. Special Meeting Reminder- September 18, 2018

A reminder that there was a special BZA meeting next Tuesday, September 18, 2018 at 7 P.M.

2. Rules of Procedure Update

Mr. James said that Staff had made changes and corrections to the draft Rules of Procedure based on last month's meeting and comments and that a clean copy had been made to the Board members in their packet.

Mr. Scowden referenced P. 10, item (g), where it stated "No fee paid for the submission of an application shall be refunded after the staff report has been prepared." and suggested that be removed as Town Council had the right to review and approve any fee refunds.

Mr. Scowden referenced P. 12, "Continuances", specifically item (d) and the need to suspend the Rules to allow a case to be continued if requested after the '5-days before a meeting' deadline. The Board and staff had a discussion over the intent of that section of the Rules and how it could be worded differently. Staff would present another version at the special meeting next week.

J. **ADJOURNMENT**

Motion: Brett Scowden made a motion to **ADJOURN**, motion carried 5 In Favor/0 Opposed/0 Abstained. 7:40 P.M.


Mike Arnould, President

ATTEST: 
Heather Wetzel, Administrative Assistant