

TOWN OF BETHLEHEM
Zoning Board of Adjustments Meeting
August 1, 2023
Minutes

Present: Andrea Bryant, Christopher McGrath, David Van Houten, and Frank Pinter

Absent: Ruth Heintz

Andrea Bryant opened the meeting at 5:01 pm with the Pledge of Allegiance.

Andrea reads the Public Hearing Notice:

Notice is hereby given in accordance with RSA676:4 & 675:7 that the Bethlehem Zoning Board of Adjustments will hold a public hearing for a request for a Variance for a front setback for a in ground swimming pool within District One for Chaim and Davida Shapiro, for their property located at Map 204 Lot 1.7, on Lewis Hill Rd, on Tuesday, August 1, 2023, at 5:00 pm. The public hearing will be held in the Meeting Room on the third floor of the Bethlehem Town Hall.

Should a decision not be reached at the public hearing, this application will stay on the Zoning Board agenda until such time as it is either approved or disapproved.

*Per order of the Bethlehem Zoning Board of Adjustments
Dawn Ferringo, Clerk*

Mrs. Shapiro explains they were hoping to place an in-ground pool on the property; however the majority of the lot is not conducive for a location for the pool so they are looking asking the ZBA for a front setback variance of 34 feet. The tree line along the road would remain and so the view from the road would not change.

Andrea explains to Mrs. Shapiro that the board will go through the checklist for completeness before moving ahead.

Andrea and David review the checklist and the items submitted before moving on to reading the variance application and the facts to support the variance.

1. Granting the variance would not be contrary to the public interest because: *the inground pool will be within property line and behind tree line that already exists adjacent to the street.*

David Van Houten is concerned about setting a precedent for permitting something too close to the road. Chris McGrath pointed out that there is an existing tree line along the road. He also pointed out there none of the abutters were present to contest the application. He closed by saying he was sure the contractor picked the most suitable location for the pool.

Chris McGrath motions to accept criteria one. Andrea Bryant seconded, David Van Houten opposed, motion passed 3-1.

2. If the variance were granted, the spirit of the ordinance would be observed because: *the pool will be 35 feet from the center line of the road, and it will also be mostly behind tree cover.*

Chris McGrath motions to accept criteria two. Frank Pinter seconded the motion while David Van Houten opposed it. Motion passed 3-1.

3. Granting the variance would do substantial justice because: *the property owners have a 15-year-old daughter that is a cancer survivor, and she will benefit from the inground pool. The pool will provide her with the opportunity to use it in the privacy of her own residence.*

David brings up that the pool is a semi-permanent, as are the neighbors. We need to be sure the ZBA keeps in mind there is a reason why zoning ordinances are what they are. A brief discussion followed.

Chris McGrath made a motion to accept criteria three. Andrea Bryant seconded; David Van Houten abstained. Motion passed with 3 votes.

4. If the variance were granted, the values of the surrounding properties would not be diminished because: *the pool will be behind an already present three line, it will be professionally maintained to the highest standard. There will be a solid privacy fence around it.*

Frank motioned to accept criteria four. Chris McGrath seconded; motion passed 4-0.

5. Unnecessary Hardship
 - a. Owing to special conditions of the property that distinguish it from other properties in the area, denial of the variance would result in unnecessary hardship because:
 - i. No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of the provision to the property.

The home layout and position within the property lines do not allow for usage of other areas of the property for a pool since the surrounding areas are sloped and heavily wooded.

David commented that this is about an unnecessary hardship and he does not believe that having a pool in your front yard is necessary and therefore there is not hardship not qualify as a hardship.

Christ McGrath motioned to accept criteria 5, part a, item i. Frank Pinter seconded, and David Van Houten opposed. Motion passed 3-1

ii. The proposed use is a reasonable on because:

An inground pool is a reasonable use as it is not destructive to the neighbors, it will benefit our daughter, and if other parts of the property were usable a pool is generally a reasonable use of land.

Chris McGrath motioned to accept criteria 5, item ii. Andrea Bryant seconded, and David Van Houten opposed. Motion passed 3-1

- b. Explain how, if the criteria in subparagraph (a) are not established, an unnecessary hardship will be deemed to exist if, and only if, owing to special conditions of the property that distinguish it from other properties in the area, the property cannot be reasonably used in strict conformance with the ordinance, and a variance is therefore necessary to enable a reasonable us of it.

Due to the configuration of the property, the only level unwooded area is the front of the house. The areas to the side and behind are sloped and heavily wooded. The area in the front is most suitable for the installation of a pool.

Chris McGrath motioned to accept criteria 5, part b. Andrea seconded, and David Van Houten abstained. Motion passed 3-1.

The application for variance passes. The board informs the Shapiro's a Notice of Decision will be mailed to them shortly.

Andrea closed the public hearing at 5:50.

The board reviewed the minutes from July 18, 2023. Some items were included from another meeting and need to be removed. Dawn will have to revise. Andrea Bryant motioned to accept the minutes with the noted revisions. David Van Houten seconded. Motion to accept the minutes passes 4-0.

David proposed the next meeting date sometime in the first half of November. Chris McGrath suggests November 14, 2023, at 6:00. The rest of the board agrees.

David motioned to adjourn, Frank seconds, motion passes 4-0.

Respectfully submitted,

Dawn Ferringo
Planning and Zoning Board Clerk