



City of Carmel

Carmel Board of Zoning Appeals Hearing Officer September 24, 2018 Meeting Minutes

Location: Carmel City Hall Caucus Rooms, 2nd Floor, 1 Civic Square, Carmel, IN 46032

Hearing Officer: Mr. Dennis Lockwood

Staff Present: Angie Conn, Planning Administrator
Nathan Chavez, Administrative Assistant

Legal Counsel: John Molitor

Time: 5:30 p.m.

Public Hearings:

(V) 14435 Pemberton Ln, Pool Equipment Setback.

The applicant seeks development standards variance approval for the location of pool equipment:

1. **Docket No. 18070002 V UDO Section 5.02.C.7 Min. 10' side yard setback for pool/decking/equipment, 5' proposed.** The site is located at 14435 Pemberton Ln. (in Overbrook Farms, Section 2, Lot 41). It is zoned S1/Residence-ROSO III. Filed by Mike Rutherford of Blue Haven Pools.

Petitioner: Case & Kyley Hooper:

- The pool and equipment have already been installed and we are requesting a variance to keep the pool equipment where it currently is
- The location was chosen because of how the grade/slope of the backyard is
- We brought in photos to show the area of where the pool equipment is
- We took a video to demonstrate the amount of noise that is created by the pool pump
- Two remonstrance letters were sent in from an adjacent neighbor and a nearby neighbor
- One letter stated the sound and view from the equipment could be heard and seen from the neighbor's house
- The neighbor's view of the pool equipment is blocked by three pine trees, a fence, and tall ornamental grasses
- We spoke with some of the neighbors to discuss the concerns. We came to the conclusion the noise is no louder than our AC unit and the view of the equipment is blocked by landscape.
- Newer pool equipment is not as loud as they used to be
- The letter stated there's no room to access the equipment due to being close to the fence. We can verify we had no problems accessing our pool equipment.
- Any leaks from the equipment would result in the water draining down the incline/slope in our yard. A letter from the adjacent neighbor stated the water would flow into their property.

Public Comments: None

Department Report: Angie Conn:

- The pool itself and decking meets the requirements. Only the pool pump is within the setback.
- The petitioner has addressed the concerns of the neighbors and Staff recommends positive consideration

Board Comments:

Dennis Lockwood: This type of petition with installing equipment within the setback typically bothers me, but you all have presented sufficient evidence. Staff's comments, and nicely placed landscaping also helped with my decision.

Dennis Lockwood: Exactly how far off the property line is this equipment? **Mike Rutherford:** It is about 2-3' from the property line.

Approved 1-0

(SE) Wilson Short Term Residential Rental.

The applicant seeks the following special exception approval for a short term residential rental unit:

2. **Docket No. 18080004 SE UDO Section 2.07 - Permitted Uses, Special Exceptions.**

The site is located at 14187 Laura Vista Dr. It is zoned R1/Residence-ROSO III, and is Lot 6 in Yorktown Woods Subdivision. Filed by Katharine Wilson, owner.

Petitioner: Katharine Wilson

- The special exception request is to use the home as a rental through Airbnb outside the dates that were originally certified by the Mayor

Public Comments:

Joseph Baquero, Lives in Yorktown Woods: Against this variance. I am concerned because of the small size of the neighborhood and there are children around. Strangers will be using the residence. Noise and parties will take place.

Graydon Lower, Lives in Yorktown Woods: Against the variance. There will be parties and sex offenders can rent the home.

Robert Irwin, Lives in Yorktown Woods: Against the variance. I share the same concerns as the previous comments. Will they rent as needed? I'm concerned with overnight parking. There are rules within the HOA.

Joseph Baquero: *Passes out document* from a neighbor who couldn't attend this meeting. He is concerned with noise that would be created from drunken parties, and renters not cleaning up after their pets.

Robert Irwin: I'm concern how this will affect the home values.

Katharine Wilson: I have addressed all of these issues they have brought up at this meeting. It's explained in my info packet I submitted to the BZA and Staff.

Robert Irwin: I didn't receive any proper documents / notice. **Katharine Wilson:** Per the rules of the BZA, I did not have to notify you, only adjacent property owners. All the neighbors were invited to the Yorktown Woods HOA meeting.

Dennis Lockwood: Are there any other issues that attendees of this meeting would like to bring up regarding this variance?

Joseph Boqueru: We spoke with other neighbors and they all have the same concerns and are against this.

Graydon Lower: We can probably get a list of 25 neighbors who are against this. **Katharine Wilson:** You were not at the HOA meeting, and it was a unanimous vote in favor of this by the Yorktown Woods HOA Board.

Dennis Lockwood: We are still in the section of the meeting were public comment is allowed. Is there anyone else here to speak in favor or against this petition? *No response from the crowd*

Petitioner's Rebuttal: Katharine Wilson:

- My family and I travel a lot, so I wanted to take advantage of the time being gone and rent my home.
- Airbnb has a 1 million dollar policy. I have a \$750k policy on my home.

- It's not my desire to have renters party at my home. The intended use of my Airbnb is for families who are attending events at Grand Park and other sporting events.
- I have a driveway for overnight parking where renters can park.
- My concern is my neighbor who started a project and has miscellaneous building items hanging from his deck. I keep my property and interior of my home in great condition.
- Airbnb has an application process to make sure the quality of the renters remains in check. If there are problems with the renters, neighbors are allowed to file compliant with Airbnb while they are staying at my property.

Department Report: Angie Conn:

- The petitioner has worked with Staff to address the concerns and they meet all the requirements per the Ordinance
- Staff recommends positive consideration of this SE request
- If approved, the petitioner is granted the variance for one year. They will need to come back for re-approval.

Board Comments:

Dennis Lockwood: Will you be vetting the potential renters? **Katharine Wilson:** Yes

Dennis Lockwood: Would you be staying at the house when the renters are there? **Katharine Wilson:** From time to time, I will be staying at home. My daughter is away at college, so I have an extra room.

Dennis Lockwood: How many people can you accommodate at your home? **Katharine Wilson:** Up to 8 people

Approved 1-0

(V) MJ Insurance Signs.

The applicant seeks the following development standards variance approvals for signage:

3. **Docket No. 18080006 V UDO Section 5.39.SI-01.I.2.d.i. Sign facing north (not facing a street ROW) and number of signs (2 upper floor "building" signs allowed, 3 requested).**
4. **Docket No. 18080007 V UDO Section 5.39.SI-01.I.5.f.iv Blade sign projects 6' from the building proposed; max. 5' projection allowed.** The site is located at 571 Monon Blvd. and is located in Midtown Carmel, Block 3. It is zoned PUD/Planned Unit Development. Filed by Christina Bruno of Bose McKinney & Evans LLP.

Petitioner: Christina Bruno

- This building is adjacent to a parking garage. There is need for visibility.
- *Passes out* an updated site plan that shows where the signs will be located
- We worked with Staff to come to an agreement on what the sign would look like

Public Comments: None

Department Report: Angie Conn:

- The petitioner has worked with our sign specialist
- The sign will face north
- Staff is in support of both variances and recommends approval

Board Comments:

Dennis Lockwood: Where are the other two additional upper floor window signs located?

Christina Bruno: One sign is going up this week in the corner closest to the apartments on the Monon. The other sign is not for MJ Insurance, but for the other tenant.

Approved 1-0

(V) Gundy Pool/Wall.

The applicant seeks the following variance approvals for a swimming pool & wall:

5. **Docket No. 18080008 V UDO Section 5.09.B Max. 42” fence with at least 25% visibility required in the front yard, 7’4” tall solid masonry wall proposed.**
6. **Docket No. 18080010 V UDO Section 5.02.B Pool in front yard proposed, Pool set back behind front line of house required on corner lots.** The site is located at 210 Woodland Ln. and is located on Lot 43 of Woodland Golf Club subdivision Section 2. It is zoned R1/Residence. Filed by Adam DeHart of Keeler-Webb Associates, on behalf of Peter & Debra Gundy.

Petitioners: Peter & Debra Gundy

- When we purchased the property, my wife and I decided to work with the neighbors and Woodland country club in order to ascertain the best location for the pool
- There is no HOA for the Woodland Golf Club subdivision
- We also met with the Woodland Golf Club grounds crew regarding the tree preservation in our front yard
- The wall and house are already built. The pool will sit behind the wall. The goal is to have a courtyard.
- We hired a landscaping company to ensure the pool is not seen from either front yard
- The neighbors have given their positive support for this project. We have not received any negative comments.
- The pool will be designed as a lap pool
- We feel this will enhance the view of our street

Public Comments: None

Department Report: Angie Conn:

- The first variance is for height and percentage of visibility. The second variance is to allow the pool in the front yard. It is designed tastefully and you won't be able to tell there's a pool in the front yard.
- Staff is in support of the variances and recommends approval

Board Comments: Dennis Lockwood: I really like the design of the house and how you integrated the courtyard

Approved 1-0

(V) McDougal Pool.

The applicant seeks the following development standards variance approval for a swimming pool:

7. **Docket No. 18080009 V UDO Section 5.02.C.7.a Pool to encroach 15' into 30' rear drainage & utility easement; easement width plus 3' setback required.** The site is located at 14459 Smickle Ln. and is located on Lot 8 of Cherry Tree Grove subdivision. It is zoned S2/Residence-ROSO III. Filed by Bill Lambert of Perma Pools, on behalf of Grant & Renee McDougal, owners.

Petitioner: Bill Lambert

- *Referred to the site plan* – There's 63' from the rear of the house to rear property line, and 50' of that is taken up by easement, leaving only 13' to build anything without a variance
- This project must also be approved by the Board of Public Works, because there is a pipe running through the rear
- Jarrod Huff from the City Engineering informed us that as long as the pool is 7.5-ft. from the pipe easement, then BPW will probably be in favor of the request after the variance is granted
- October 3rd is the Board of Public Works hearing
- *Referred to the landscape plan* – there will be a wall and fire pit included in the plans
- We have received no complaints from the neighbors and the HOA has approved it
- The pool dimensions are 14'x28' and will have it installed as close to the house as possible

Public Comments: None

Department Report: Angie Conn:

- The petitioner has worked with Staff to meet the City Engineer's request to stay off the pipe easement
- Staff recommends approval of this variance request

Board Comments: None

Approved 1-0 with the understanding that Board of Public Works also approves this project

Meeting Adjourned at 6:29 p.m.

Dennis Lockwood – Hearing Officer

Nathan Chavez – Recording Secretary