

**REGULAR MEETING OF THE ZONING BOARD OF APPEALS**  
**OF THE VILLAGE OF BOLINGBROOK**  
**AUGUST 10, 2011**

**CALL TO ORDER**

Trustee Pritikin called the meeting to order at 7:02 p.m., August 10, 2011.  
Chair Fletcher was not able to be at the meeting.

**ROLL CALL**

Present: Board Members: Seymoure Pritikin (acting as Chair), Paul Wonderlin, Sheldon Watts and Deane Marrs

Absent: Chair Russ Fletcher

Staff Present: Planning & Zoning Administrator – Nicole Knapp and Village Clerk – Carol S. Penning in for Village Clerk - Maggie Sadowski

Press: None

**JOURNAL OF PROCEEDINGS**

None

**PUBLIC HEARING**

Docket No. 11.04V-0810  
12 Picnic Ct.  
Applicant: Nadine Rasper  
Sec. 5-105(B)(1)(j)  
Reduce required corner side yard setback

Motion Wonderlin, second Marrs to open the public hearing.

AYES: 4 Watts, Pritikin, Marrs, Wonderlin

NAYS: 0 None

ABSENT: 1 Chair Fletcher

Motion carried. Public Hearing opened at 7:03 p.m.

**SUMMARY**

Planning & Zoning Administrator, Nicole Knapp, delivered the summary. The applicant requested to reduce the required corner side yard setback in order to allow a swimming pool (constructed without a permit) to have a corner side yard setback of approximately six and one-half (6.5) feet to the structure and three (3) feet to the filter.

The subject property is zoned R-3 Single Family Residential with an existing residence and is surrounding on all four (4) sides by R-3 Single Family Residential with existing homes.

The 10,834 square foot lot is improved with an approximate 1,859 square foot home "footprint", a 275 square foot deck and a 60 square foot shed.

On July 5, 2011, a Building Inspector placed a stop work order at the subject site because the inspector witnessed a pool being installed without a Building Permit. Later that day, the homeowner applied for a building permit for said pool.

On July 7, 2011, Matt Eastman, Planner, called the homeowner to explain that the installed location of the pool as shown on the Building Permit Plans did not comply with the Zoning Ordinance. At that time, Matt explained the options regarding relocating the pool to comply, as well as the variance process.

On July 19, 2011, the homeowner applied for the attached variance request with hopes of being approved, so the non-compliant pool could remain as installed. As a result, the applicant requested a variance from Section 5-501(5)(1)(j) of the Village of Bolingbrook Zoning Ordinance, which requires all swimming pools, including attached decks, walkways and apparatus (support structures, filter and heater) shall not be permitted within a corner side yard which requires a setback of twenty-five (25) feet in residential Zoning Districts.

On July 28, 2011, a site inspection revealed the twenty-four (24) foot diameter pool to be approximately six and one-half (6.5) feet from the corner side yard property line while the filter was only three (3) feet off of said property line. During the inspection, the Electrical Inspector could not verify the exact distance between the pool and the ComEd wiring, as the flag markers had been removed from the area. The homeowner was informed that J.U.L.I.E. would need to revisit the property to mark the ComEd wiring location and upon doing so the Electrical Inspector would return to verify the measurement. On August 4, 2011, the Electrical Inspector revisited and verified that the pool was only twenty-seven (27) inches from the ComEd wiring when a minimum distance of five (5) feet is required. The homeowner was supplied pictures from the inspection which are included in the report and Planner Eastman emailed the homeowner explaining that the pool could not be occupied and to wait on contacting ComEd until the variance was decided on at this meeting.

As shown on Exhibit A during the meeting, the homeowner requested a variance in order to allow the pool to remain in its current location. If approved, the pool would encroach eighteen and one-half (18.5) feet into the required twenty-five (25) foot minimum corner side yard setback with the filter encroaching approximately twenty-two (22) feet.

The pool is currently located within a Public Utility and Drainage Easement along Apple Valley Road which is a ten (10) foot easement. As of August 3, 2011, the homeowner had not obtained written approval from the utility companies in order to encroach approximately three and one-half (3.5) feet into the ten (10) foot utility easement along the corner side yard property line. Additionally, earlier today, Planning & Zoning Administrator Knapp had talked to the Engineering Department at the Village and was told that the Public Works & Engineering Department would be denying the encroachment request as the ten (10) foot easement contained the storm sewer. The pool would, therefore, need to be relocated.

She noted that without written approval from all of the utility companies, the pool cannot remain in the current location even if the variance should be granted.

Given the denial from the Public Works & Engineering Department, the pool would need to be relocated a minimum of five (5) feet to the North. Given the proximity of the pool to the ComEd wiring, the pool would then be on top of the wiring.

As a result, Staff recommended that the variance be denied based on no hardship to warrant such variance if two (2) other factors are causing the said pool to be relocated to the North half of the yard.

### **DISCUSSION/TESTIMONY**

Nadine Raspar, 12 Picnic Court, was sworn-in. She explained why they put the pool where it is. They had gotten the permit application but the pool company was already coming out to mark where the pool would go and scheduled an appointment to install the pool. The pool was being installed when the Village Inspector came to the house. They did not understand that the pool could not be placed in the easement. J.U.L.I.E. had marked the ComEd line twice and each time had put it in a different place. The Village Inspector told them to ask for a supervisor to come out and mark the ComEd line but the supervisor refused to come to the house. She explained that ComEd had come out to the house that morning and gave them a quote to move the line and it was extremely expensive. They felt like there was no place to put the pool in their yard with all of the rules and regulations that had to be followed. She wasn't sure what to do if the pool company or ComEd refused to return their calls.

Pritkin noted that the homeowners had the right intentions but that it was a difficult situation. In the end, however, it is the homeowner's responsibility to make sure that the contractor follows through the process correctly.

Wonderlin added that his concern was that there was a 220 volt electricity line running too close to your pool and if anything happens, the insulation around the line or the pool leaks or even if it rains, if the pool is not five (5) feet away, it can cause someone's death. It is a safety issue. In good conscience, the Village cannot allow the variance. Plus, being within the sewer & drainage easement, if there were a problem with the storm sewer right there and the Village needed to work on it, they will not move a pool.

Nadine Raspar answered that the pool was above ground.

Wonderlin stated that even above ground pools are considered permanent structures. The sewer line runs in that easement and Public Works & Engineering will not grant the variance.

Richard Respar, 12 Picnic Court, was sworn in. He explained that the original mark that J.U.L.I.E. made was six (6) feet away from the pool. Then, ComEd came out and put it in a different place. He had a letter from ComEd stating where the line was actually located in their yard.

Planning & Zoning Administrator Knapp asked if he had an exhibit or picture with the letter that showed where the line was located in the yard?

Richard Respar replied that there was not a picture.

Knapp then asked who made the ComEd mark on August 4<sup>th</sup> when the Inspector came out to the house?

Respar responded that he was not sure since several different agencies had come out and marked the line in different places.

Pritikin noted that it was not 100 percent certain where the line was exactly. The pool would have to be relocated at least five (5) feet to the North just to get the variance clearance from Public Works & Engineering. His concern was for the homeowner to get the exact location of the ComEd line so they could have it moved in order to know where to put the pool, should they decide to pay the expense of moving the ComEd line.

Knapp explained that they would have to move the pool no matter what to get the variance from Public Works & Engineering. Public Works would not even approve a one (1) inch encroachment into the utility easement because of the sewer line.

Watts asked the homeowners if they were still trying to get ComEd out to mark the exact location of the power line? Nadine Respar replied that a Supervisor at J.U.L.I.E. was supposed to be working with someone at ComEd to get the exact location of the line.

There were no other questions or comments.

Motion Wonderlin, second Watts to close the public hearing.

AYES: 4 Watts, Pritikin, Marrs, Wonderlin

NAYS: 0 None

ABSENT: 1 Chair Fletcher

Motion carried. Public hearing closed at 7:25 p.m.

The Board completed the Findings of Fact Worksheet.

Motion Wonderlin, second Marrs to approve Docket No. 11.04V-0810, on the property located at 12 Picnic Court (Cider Creek Phase 2 Subdivision), for the purpose of reducing the required corner side yard setback in order to allow a swimming pool (constructed without a permit) to have a corner side yard setback of approximately six and one-half (6.5) feet to the structure and three (3) feet to the filter.

AYES: 1 Marrs

NAYS: 3 Watts, Pritikin, Wonderlin

ABSENT: 1 Chair Fletcher

Motion carried. Variance denied.

## **RESOLUTIONS**

None

**OLD BUSINESS**

None

**NEW BUSINESS**

None

**CHAIRMAN'S REPORT**

None

**BOARD MEMBERS' REPORTS**

None

**STAFF COMMENTS**

None

**CITIZENS TO BE HEARD**

None

**ADJOURNMENT**

Motion Wonderlin, second Marrs to adjourn the meeting.

VOICE VOTE. MOTION CARRIED.

Pritikin adjourned the meeting at 7:28 p.m.

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Chairman

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Approved

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Secretary