



The Haddaway family has considered purchasing the adjacent lot so that a variance would not be necessary but the adjacent lot is not available for purchase. They considered whether it could be built in a position that is not directly behind the primary dwelling but ruled out that option because they deem it unsafe to not have direct line of sight to the pool from the back of the house.

Derwin Lowe resides at 5545 Landing Neck Rd. He owns the neighboring property. He testified that he does not object to the variance but appeared to ensure that any granted relief would not affect his own setback requirements or place any additional restrictions on his own property.

Mr. Conley advised that Lane Engineering will survey the property prior to any construction to ensure the pool is built pursuant to the setback variance that may be granted by the Board.

### **FINDINGS OF FACT AND CONCLUSIONS OF LAW**

The Board finds that the Applicants have satisfied the standards for granting of the variance; however, the Board finds that the Applicants should be granted a variance that permits construction of a pool with a 30' side yard setback, as opposed to the 25' requested. The Board sets forth these additional findings:

A. Unique physical characteristics exist such that literal enforcement of the setback requirements would result in practical difficulty or unreasonable hardship in enabling the Applicant to develop the property.

The narrow size of the property presents a unique challenge of meeting side yard setbacks within the AC district, which requires 100' minimum lot size. The lot width on this property is minimum 150' and the side yard setbacks in that zoning district are 50'. The site plan provided by the Applicants clearly demonstrates the constraints of constructing anything within the allowable setbacks. It is apparent that the primary dwelling and garage were constructed at a diagonal angle because of these constraints.

B. The need for a variance is not based upon circumstances which are self-created or self-imposed. The property has existed in its current configuration for decades. The property owner has not made changes to the configuration.

C. The variance is not requested for greater profitability or lack of knowledge of the restrictions. The pool will be used for private purposes and is necessary due to the narrowness of the lot.

D. The variance is not contrary to the public interest and will not be a detriment to adjacent or neighboring properties.

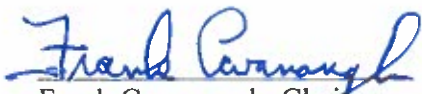
E. The variance will not exceed the minimum adjustment necessary to relieve the practical difficulty or unreasonable hardship. The Board finds that altering the variance request to a 30' setback, as opposed to a 25' setback will achieve the minimum adjustment necessary to relieve the Applicants of the practical difficulty.

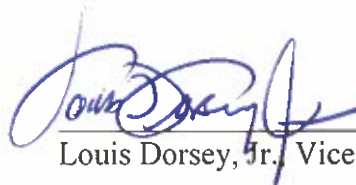
Mr. Krebeck moved that the Applicants be granted a variance of the required 50' side yard setback to 30' to permit the construction of an in ground swimming pool to include 3' pavers around the perimeter of the pool. The variance is subject to staff conditions. The motion was seconded by Mr. Heikes. Based upon the foregoing, the Board finds, by a unanimous vote, that the variance is granted subject to staff conditions.


1. The applicant shall make an application to the Office of Permits and Inspections, and follow all rules, procedures, and construction timelines as outlined regarding new construction.

2. The Applicant shall commence construction of the proposed improvements within eighteen (18) months of the date of this Decision set forth below.

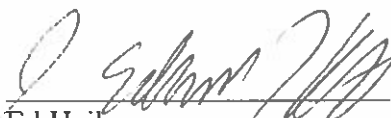
**IT IS THEREFORE**, this **10th** day of October, 2023, **ORDERED** that the Applicant's request for a variance is GRANTED.

  
Frank Cavanaugh, Chairman

  
Louis Dorsey, Jr., Vice-Chairman

  
Paul Shortall, Jr.

  
Zakary A. Krebeck

  
Ed Heikes