

**CITY OF SOUTH LYON  
ZONING BOARD OF APPEALS  
April 17, 2008**

Chairman Weipert called the meeting to order at 7:04 p.m.

PRESENT: Chairman Weipert and Commissioners Ron Morelli, Mike Potter Chad  
Cunningham, Keith Bradley and Tom Goodcase. Also present, Building  
Department Inspector Mike Jakubowski

ABSENT: Commissioner James Herman – ~~was~~excused.

**APPROVAL OF MINUTES:**

**ZBA 04-17-08 APPROVAL OF MINUTES – March 20, 2008**

Motion by Morelli, supported by Goodcase

To approve the minutes of March 20, 2008 with no changes.

VOTE:

**MOTION CARRIED UNANIMOUSLY**

**OLD BUSINESS**

None

**NEW BUSINESS**

**Mark Rakoski – 1225 Corral**

Chairman Weipert – The applicant can come up and introduce himself and state his address and hardship.

Mr. Rakoski – Is it possible to wait a couple more minutes?

Chairman Weipert – Isn't the applicant here?

Mr. Rakoski – I am the applicant but I am waiting for one (1) more person that has more information.

Chairman Weipert – We can start with you and then hear him.

Mr. Rakoski – Okay. We are trying to put a pool in and between City zoning, lot size, house size and rear of house where my lot drops off, I am trying to show that drop off in the pictures. It drops off into the wet land. I believe the hardship would be the breaking

of the zoning rule. Looking what we can and cannot do to put a pool there, I am asking for a variance.

Commissioner Morelli – What is your hardship?

Mr. Rakoski – Basically the size of the lot and how it drops down, it is forcing me into a condition where I can't get a pool in otherwise. We have tried to engineer it and have worked with the pool personnel. I am an engineer myself and I think this is the only thing we can do to fit this in there.

Chairman Weipert – Isn't the issue coverage not shape?

Mr. Rakoski – Shape meaning?

Chairman Weipert – The shape of your lot. But isn't just the size of this pool causing the problem?

Mr. Rakoski – No. I think the ratio of my house to lot size is almost at your zoning limit which I think is 25%. I basically can't do anything. Shame on me I bought the lot and I guess I did not look at it at that point in time. The backyard the way it flows, it has a steep drop off due to the way it was left after the builder made the lot and left it there. So, in order to put the pool in, meet the building codes and still have it built in takes up that much space. It is still all contained in my backyard. It is not on the side yard.

Commissioner Morelli – The reason for the rule is when it rains and snows everything is suppose to go back into the ground. If you covered your whole lot, then it can't go into the ground. It falls off the roof onto the gutters onto the patios onto the sidewalks onto the driveways and eventually ends up in your neighbors, in the streets and storm sewer. So, the reason it is not suppose to cover 25% is so it goes back into the ground. We have developers who come in and they build the biggest house they can onto the smallest lots. That is what happened there. We have huge houses in an R-2 sub. We already bent the rules and don't count driveways and front walks to help with that 25%, so that is not even in your equation. By the time you have the footprint of your house plus your brick pavers, all that fits but now you want to build your pool and you have gone out of that 25% regardless of the grade. You cannot change grade anyway. The homeowners association has a note here that says you can't change it more than 24". I visited the place this morning and I don't know how you are going to do it. It seems that if you dig a foot you will hit water. The logical thing, if it was my house and I wanted a pool, to build up the back, walk out over my patio and there is my pool and I have a retaining wall five (5') foot out of the ground in the back of the lot. Unfortunately, you cannot do that. You can't do it for two (2) reasons. One (1) you can't change the grade and 2) you are over the 25%.

Mr. Rakoski – That is why we are digging into the side of the hill to keep that all flowing. If you look at the grade of the lot, the whole yard from front to back just completely goes downhill.

Commissioner Morelli – It goes to the retention basin back there. Is there water in there all year?

Mr. Rakoski – It dries up but in the late fall and spring there is water in there.

Chairman Weipert – Some of the last lots built on are odd lots. How long has your house been there?

Mr. Rakoski – Since 2001. There is a variance for about five (5) to six (6) houses along my row where there is a set-back rule of 20' for the back-yard. It was a variance to build the home.

Chairman Weipert – We received this plan and the homeowner association approved it?

Mr. Rakoski – Yes.

Chairman Weipert – I walked it today and it seems like the grade was as high as my head if I stood back. How can you build this and not exceed 24"?

Mr. Rakoski – See those steps going down, we are building it into the side of a hill.

Commissioner Morelli – You are changing the grade at the top and at the bottom.

Mr. Rakoski – Most pools are completely flat. This one (1) will have a high wall on one (1) side and a lower wall on the bottom side.

Commissioner Potter – How far down from your current patio are you.

Mr. Rakoski – Three (3').

Commissioner Potter – The current grade at the back of the pool is another three (3').

Commissioner Cunningham – This drawing is just flat and we don't have a side profile to show a grade.

Commissioner Potter – How high above grade is the deck at the back, the current brick pavers you have back there.

Mr. Rakoski – About four (4') to five (5').

April 17, 2008  
Page Four

Commissioner Potter – So that does fall within the subdivision rules. If the deck is above four (4') or five (5') and then the pool is down three (3') from that, that is not outside of the subdivision rules in the front or in the back.

Weipert – I just wanted to know how this grade was going to work. It cannot exceed 24" from the existing grade.

Mr. Rakoski – Yes, it is dug in the hill. It is hard to imagine.

Chairman Weipert – We also try to keep within the character of the neighborhood and it seems like that pool is going to be way different than the rest of the houses along there. Everyone has about the same protrusion in the back yard but you will stick out.

Mr. Rakoski – It is not much different than the patio today since you are only going out three (3') from where it is today. The patio almost goes to the end of the lot the way it is. The fact is that I don't bump up to anyone in the backyard. My lot is kind of pie shaped this way so there is plenty of space between the houses on the side of me. There is actually more room than most houses in the subdivision since their lots are expanding in the back. It is all kept within the backyard.

Commissioner Potter – Have you have communication with your neighbors on this?

Mr. Rakoski – They are well aware of it.

Commissioner Potter – You are four (4) to five (5) houses from the corner.

Inspector Jakubowski – He is three (3) houses and I think there is a retention pond there and then the street.

Commissioner Potter – So it really will not have an effect on the neighbors around the corner then?

Mr. Rakoski – No.

Commissioner Cunningham – So the pool starts 11' from the back of the house.

Mr. Rakoski – Yes.

Commissioner Cunningham – How long towards the back lot is the pool?

Mr. Rakoski – It will be 27' from where the pool starts. Close to 20' wide and about three (3') of raised retention. It is less intrusive and you won't have to look at a big wall. It takes up more space but you won't have to look at a big wall which would basically take away from the character of the neighborhood.

ZBA Minutes

Commissioner Morelli – You are still almost 1,200 sq. feet over the allowed space.

Mr. Rakoski – Understood.

Commissioner Morelli – That is the only thing you are before us for. You are not here for a grade variance. It is an awful lot for a variance.

Commissioner Cunningham – If it had nothing to do with the grade in this situation, if it was just a regular pool, you would still be before because of the lot size.

Commissioner Morelli – He is not here because of the grade. The homeowner association does not want it changed. The City says you can't change grade and push water on any of the neighbor's properties. He is here because he is 1,196 sq. feet over what is allowed.

Chairman Weipert – In Joe Veltri's memo, he states that according to your drawings you list the lot size as 10,000 sq. feet. Joe says it is 9,200 sq. feet.

Mr. Rakoski – He called me and confirmed that. At that point I had already submitted the plan and he recalculated it and told me about it and I said I am still going for a variance whatever the dimensions end up being. The hardship is the high water table if you have seen my lot; I can get water all the way up to that area. I think it is a lot issue as well. The grade was changed from when I built the house. It is the final result of what the builder and the building department agreed upon. My grade was never that steep.

Commissioner Morelli – When the developers come through, grade is a huge issue and Mike can tell you. All those grades are established. While houses are being built, it changes a little bit until they do the final grade. The final grade is pretty specific on where it has to be according to the plan. Sometimes landscapers will come in and will change it a little bit to put in the plants, grass and sprinkler systems. The fact that your lot slopes and you bought the house with a retention pond in the back has absolutely nothing to do with the fact that you are over by 1,196 sq. feet.

Mr. Rakoski – Yes, it has something to do with it. We could change the design theoretically if I didn't have that big slope.

Commissioner Morelli – But you do and it was there when you bought the house.

Mr. Rakoski – They are tied together. I could possibly reduce some of the footage. I would have been over anyway but I would not have been over by as much. At the end of the day it is still going to slope.

Commissioner Morelli – Do you understand that if you wanted to build this exact same thing and all you needed was a 196 sq. feet that is bendable. In my opinion, 1,196 sq.

feet is not bendable. The lot is what it is and I don't buy the hardship but if you only needed 196 sq. feet, I would not have a big deal with that. But 1,196 sq. feet that is a lot.

Mr. Rakoski – It isn't from where the existing patio is.

Commissioner Potter – That is the size of the variance, so that is on top of the existing patio. The size of the variance is 13% of your lot.

Commissioner Morelli – You need 1,196 sq. foot variance to do what you want to do. Your existing pavers are within the 25%, correct?

Mr. Rakoski – I really don't know anymore. You are probably right.

Commissioner Morelli – I am assuming they are or you would have been red tagged for it.

Commissioner Potter – That is in addition. You are currently just within your 25%. With your current brick pavers you are fine.

Inspector Jakubowski – Now what is needed is 1,200 sq. feet.

Mr. Anderson – Introduced self. Greg of Anderson Brothers Pools. The pool itself is roughly 600 sq. feet as it is drawn. It could be made smaller or adjusted if there is some number that would work. Even the size of the concrete could be adjusted. I believe in this picture here they have an apron all the way across the back of the pool. If it were my pool I wouldn't even put it in. I would make it landscaped along the back edge. It would eliminate 200 sq. feet. There are ways to adjust it.

Commissioner Potter – It is a pretty large pool too. Most of the pools in the subdivision are 16' x 32' or 18' x 36'.

Mr. Anderson – This is between those two (2) sizes.

Commissioner Potter – In our neighborhood (I live in the same subdivision) I don't think there are pools that size. Most are 16' x 32' or 18' x 36'. Most of the lots in the front of the subdivision are a lot bigger. I just want to point out that this is a pretty good sized pool to be putting on a small lot. It's not like it your trying to slip a hot tub in.

Chairman Weipert – If you took off that apron, could you move the pool closer to the house?

Mr. Anderson – If you shrink the perimeter of the pool one (1') all the way around it would be another 100' taken off.

April 17, 2008  
Page Seven

Commissioner Cunningham – Seven (7') from the back of the property line is awfully close. It seems like the whole apron area does not need to be that big. It is taking up so much of that lot. To me, it is too much of a variance.

Mr. Anderson – The code is six (6') to water correct? (An association rule).

Commissioner Potter – How much sq. footage are you taking off the patio to add the pool in?

Mr. Anderson – Maybe 50' – 100'.

Commissioner Cunningham – Your patio now goes back 31' from the back of the house?

Mr. Rakoski – Not that far. Depends on what you call the back. There is a building code that I have to be so many feet away from the house.

Commissioner Potter – There is three (3') behind this four (4') apron. Is that a wall or what is back there?

Mr. Rakoski – That is just dropping down.

Commissioner Goodcase – Part of this 1,196 sq. feet includes this terrace where you are talking about eight (8') wide steps going down.

Mr. Rakoski – There has to be a way to get down to the pool. There would be no way to crawl out of the pool since the one (1) side will be too high to crawl out. That is another reason because the lot is dropping off you have to have that apron going around it.

Chairman Weipert – The edge of the pool is going to start where on your existing patio?

Mr. Rakoski – From the drawing it is 11' from the edge of the house.

Mr. Anderson – The existing patio is probably in the middle of those stairs going to the shallow end side.

Commissioner Potter – Is there anything that prohibits the pool with the grade issues being that close to the house? How much closer to the house could you get?

Mr. Anderson – Most cities are 10' to the water.

Commissioner Potter – There seems to be a significant amount of extra space over here (north side of the pool). Concrete will go in there right?

Mr. Anderson - Yes. Again, that can be adjusted or shrunk.  
ZBA Minutes

April 17, 2008  
Page Eight

Commissioner Potter – I can't speak for everybody but I think some sort of compromise could be looked at. A 13% variance is a lot. Something in-between would be in your better interest.

Mr. Rakoski – Yes, I am listening. If it ends up being so small with the cost of the pool, I won't do it. I realize it is bigger by 13% after Joe calculated. By the time you take in effect the City rules, the rules of the subdivision and physics on how you can do this (the concrete apron is taking up a lot of square footage) but I have to have that patio walk way around. You could move it a foot closer and cut that all off. It is tight as it is, I don't know if I can fit the patio furniture on there.

Mr. Rakoski and Mr. Anderson reviewed the plan to discuss alternatives amongst themselves.

Mr. Rakoski – I guess it is the chicken or the egg what can you live with versus what you can't live with.

Commissioner Morelli – If it were a couple of hundred square feet, even though I don't see the hardship, I could live with that. It is not up to us to redesign it but if we gave you some direction. For example, if it were 600 sq. feet and we could live with that then you could go back and try to redesign to come up with the 600 sq. feet or to not do it that is up to you. Are you looking to us for direction to come up with a number?

Mr. Rakoski – How about 800' or 900' sq. feet. That would be 25% off.

Commissioner Potter – It is not for any one of us to decide.

Commissioner Morelli – He is looking to us for direction.

Chairman Weipert – If he took off that back apron that is 200 sq. feet.

Commissioner Potter – Another thing to look at is the way you have the pool now, you have that kidney bean shape coming this way, where if it was going towards the back of the lot you could still have an apron back there and be cutting into it and only have three (3') at one point. You would still have a usable walkway and you would not be pushing it back as many square feet as you are by having it on the front end.

Mr. Rakoski – All that is not going to get me to 600 sq. feet. I understand what you are saying. That is also part of the patio like I said and it is not very big. You have to have enough room to get to those steps. This side is elevated but you need a way to get down there.

Commissioner Potter – I can say personally, if there is a way we can come up with a compromise where you cut off 400'-500' sq. feet, that would seem a lot more feasible to  
ZBA Minutes



April 17, 2008

Page Nine

me and that might be something I would be more likely to support. I don't speak for anyone else.

Chairman Weipert – I feel the same way.

Commissioner Cunningham – I agree.

Commissioner Potter – We hate to put your project off but we can't just agree to something on the spot that we don't have drawings for.

Chairman Weipert – We can't pre-commit to a number. This board could come up with a compromise but we can't tell you it will be this and then come back with a new drawing. We can doctor this drawing right now. That is what Joe would be speaking of. We can give you an idea.

Commissioner Morelli – If we need a variance of only 400'-600' sq. feet, is that something that is doable if the drawing meets everything else. Again, it is not a commitment but I think that will give you some kind of direction where to go. We can't say if you come back with a variance of 552 sq. feet we will approve it. That we cannot do.

Mr. Anderson – Could we take a ten minute break and we will redraw it?

Chairman Weipert – Sure.

Commissioner Potter – Summer is coming and you don't want to get your pool done at the end of August.

At 7:40 p.m., ten minutes or so was granted to applicant to redraw the current plan (using the conference room) and once done review it with the board.

Applicant returned at 7:51 p.m. with changes to plan.

Chairman Weipert – We are back on.

Commissioner Morelli – It comes to 788 sq. feet.

Chairman Weipert – I thought you could shrink the pool a little bit.

Mr. Rakoski – I appreciate you guys, it is a tough situation.

Commissioner Potter – You took down the total length how much?

ZBA Minutes

April 17, 2008

Page Ten

Mr. Rakoski – That is two (2') off. We are taking off all this concrete back here. It will be 15' x 35'.

Commissioner Potter – So, we are losing 408 sq. feet.

Chairman Weipert – I can live with that.

Commissioner Bradley – It is still a lot, but it is better than before.

Commissioner Potter – Did you bring it a foot closer to the house or not?

Mr. Anderson – We did not because this makes it drop off that much more on the other side.

Commissioner Potter – It is a 9% variance needed now.

**ZBA 04-17-08 – MARK RAKOSKI – 1225 CORRAL**

Motion by Cunningham, supported by Potter

Motion to grant the variance based on Section 102-85 788 square feet based on the drawing the was redrawn and submitted here at the meeting cutting off 408 square feet from the original plan based on Section 102-85 2(a) (b). The variance to Chapter 102-456 of 798 square feet consistent with the plan as drawn. A copy of the drawing will be made and submitted.

VOTE: **5 YEAS, 1 NAY**

**STAFF REPORTS:**

None.

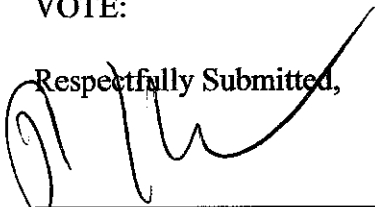
**ZBA 04-17-08 – ADJOURNMENT**

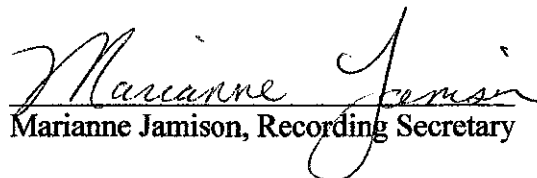
Motion by Morelli, supported by Potter

To adjourn the meeting at 7:59 P.M.

VOTE: **MOTION CARRIED UNANIMOUSLY**

Respectfully Submitted,

  
Philip Weipert, Chairman

  
Marianne Jamison, Recording Secretary