

**CITY OF SOUTH LYON
ZONING BOARD OF APPEALS
August 17, 2017**

Chairman Weipert called the meeting to order at 7:24 p.m.

ROLL CALL:

PRESENT: Chairman Phil Weipert and Commissioners Joe Rzyzi, Frank Fogarty, Steve Mosier and Brian Dunn. Also present Tim Wilhelm (City Attorney), Kelly McIntyre and Megan Blaha (Planning Commission). One vacancy on the board.

ABSENT - Commissioner Ron Morelli

Chairman Weipert led the committee into the Pledge of Allegiance.

APPROVAL OF AGENDA

ZBA 8-17-17 APPROVAL OF AGENDA

Motion by Fogarty, supported by Rzyzi

To approve the agenda.

VOTE:

MOTION CARRIED UNANIMOUSLY

APPROVAL OF MINUTES:

ZBA 8-17-17 APPROVAL OF MINUTES

Motion by Fogarty, supported by Rzyzi

To approve the minutes as amended below.

Chairman Weipert stated Marianne went through her tape and we believe we have it figured out. There were a couple of typos. These minutes now clarify that we reconsidered the motion and then we voted on the motion.

Attorney Wilhelm added that what we have on this table before this board is a motion to amend it. There was some getting to that point, then we amended the motion. It was then opposed. Then there was an amended motion to approve the motion for denial. The confusion was the statement where Chairman Weipert summed up a motion to amend a motion. The next sentence states the motion to amend is now amended.

If you put into context that statement, the only thing missing is a vote on the amendment. A motion to vote on the motion as amended. The only thing you need to add is **the motion to amend is now amended and the vote was the full 5 years and was motioned by Fogarty and supported by Dunn.** After looking at my notes and based on my discussions with some of you I think it is accurate to say that the May Minutes were approved.

VOTE:

MOTION CARRIED UNANIMOUSLY

NEW BUSINESS

ZBA Case 2017:006-Emmanuel and Karey Uwalaka- 1207 Corral Ln.

Request: The applicant is requesting a variance from the City of South Lyon Code or Ordinances, Article III "Exceptions", Sec. 102-108 "Porches and Decks." *An unopened, unenclosed and uncovered porch or paved terrace may project into a required front yard for a distance of ten feet, but this shall not be interpreted to include or permit fixed canopies. Decks at or below the ground floor level may project into a required side or rear yard, not to exceed a depth of 25 percent of the depth of the required side or rear yard.* The applicant is requesting a variance of 9 ft. to project past the allowed 25% build into rear yard setback.

The applicant is requesting a variance from the City of South Lyon Code of Ordinances, Article VII "Supplementary District Regulations", Division 2 "Height, Bulk, Density and Area Limitation", Section 102-456 "Schedule Limiting height, bulk, density and area by zoning district". *In Zoning District RM-2, Maximum percent of lot area covered by all buildings is 25%.* The applicant is requesting a variance of 6.86% on the lot coverage.

Chairman Weipert then called up the first applicant to state her name and address for the record and to tell the board members what her request is for, what is unique about the property, what her practical difficulty is and why the board should grant a variance.

Chairman Weipert noted it is a custom of this board to allow the applicant to ask us to adjourn it or move it until there is a full board. We are willing to do that. Someone may be absent this time or next time, but we offer the applicant the option to wait for a full board.

The applicant chose to have her case heard by the board members present tonight.

Karey Uwalaka introduced herself and stated her address as 1207 Corral Ln. Emmanuel is not here tonight as he is out of town. We are asking to build a couple of small decks on the back of

our house. We have 2 French doors coming off the back of the house on either side; one off of the kitchen and one off of the master bedroom. When we built the house in 2003 I believe the builder would have had to come and ask for a 3% variance from the City to push our house back further for handicap accessibility. That individual is no longer in the home. Moving forward, we now would like to build something there between those two doors. It is a 4.5 bedroom home on a very small lot compared to the other lots. What we are requesting is smaller. From the back of the house there is about 24' and we are asking to go an additional 9' in order to build there. If you don't approve the variance I will have a 5' deck coming off the house. It is smaller on one side and would only be about 1' past the building envelope. A 6' x 9' off the master bedroom with no staircase. A 14' x 14' off the kitchen with a staircase in the backyard.

Commissioner Dunn noted he is on the Trotter's Pointe Homeowner's Association and for transparency I have abstained from approval on this case through the association. I would also be happy to abstain from voting on this

Commissioner Rzyzi noted that he sees no issues.

Chairman Weipert added that we all live in the City so long as there is no financial outcome.

Commissioner Rzyzi stated that his personal opinion is that for the most part, when asked about these variances, I am in the mindset that if it does not interfere with your neighbors, it is reasonable and it is your property I side with the homeowners on the property rights issue. If it is not affecting your neighbors, I am okay with your request. I think we need to state the practical difficulties of your house and what you are asking for, i.e. wetlands, no neighbors. On my side I am okay with the concept but I am one vote.

Commissioner Dunn noted that he observed the property and it does back up to the wetlands and there is enough space. It is a wooded area and you would not see it even in the winter season.

Chairman Weipert stated that some of the things we look at is the impact of the character of the neighborhood and some of the things you have told us and we make a record of why we grant a variance. We have a house that is pushed all the way back to the building envelope, your only open space to do something worthwhile would be in the front yard, your building envelope looks like 20' x 20' to build in. You told us that you have a smaller lot than others and it is offset. I think the way your street is your house is naturally bumped back and another factor is that you have a park back there so it will not interfere with anyone and those are all good factors.

Attorney Wilhelm commented that he really encourages the board to make motion for each practical difficulty and the factors for each. Make findings that support those factors whether approved or denied. Support a motion one way or the other with specific findings. The CIB Planners review identifies those factors and the plan review.

Commissioner Rzyzi commented that the applicant would most likely want to start construction before too late in the season.

ZBA CASE 2017:006 –EMMANUEL AND KAREY UWALAKA – 1207 CORRAL LN.

Motion by Dunn, supported by Rzyzi

Motion to approve ZBA Case 2017-006 and the variance requested to build in excess of 25% of lot coverage and the 9' variance beyond the 25% rear setback for the following reasons: The petitioner's property is unique because of the pie shaped dimension. The need for the variance, while the dimensions of the house were brought back, were not self-created. It would also make it unreasonable and burdensome to follow the regulations because of the dimension and use of the property would not be permitted. The adverse effect of the property is not applicable to the wetlands and the surrounding properties there.

VOTE:

MOTION CARRIED UNANIMOUSLY

Chairman Weipert reminded the applicant to get their building permit.

ZBA Case 2017:007-Troy and Hope Field – 1102 Polo Dr.

The applicant is requesting a variance from the City of South Lyon Code of Ordinances, Article VII "Supplementary District Regulations", Division 2 "Height, Bulk, Density and Area Limitation", Section 102-456 "Schedule Limiting height, bulk, density and area by zoning district". *In Zoning District RM-2, Maximum percent of lot area covered by all buildings is 25%.* The applicant is requesting a variance of 11.16% on the lot coverage.

Chairman Weipert then called up the second applicants to state their names and address for

the record and to tell the board members what their request is for, what is unique about the property, what their practical difficulty is and why the board should grant the variance.

Chairman Weipert noted it is a custom of this board to allow the applicant to ask us to adjourn it or move it until there is a full board. We are willing to do that. Someone may be absent this time or next time, but we offer the applicant the option to wait for a full board.

The applicants chose to have their case heard by the board members present tonight.

Troy Field introduced himself and his wife Hope Field and stated their address as 1102 Polo Dr. Thank you for your time and I appreciate the opportunity to come in front of you. A little background to let everyone know we have been in South Lyon since 2002 in Trotter's Pointe and we like it here and love our neighbors. We thought about a pool about one year ago and what would be possible on the property. We actually made a bid on a house in Milford in December and it was accepted and we actually backed out of it. Our friends and family in this neighborhood is what kept us here. That is when we started to develop a plan to try to fit a pool onto our own lot here in Trotter's Pointe. Speaking to the difficulty part, I think it mostly starts with Trotter's Pointe itself. The agreement between Trotter's Pointe and the City is somewhat unique. They have non-standard shaped lots and under-sized lots which causes difficulties in this type of situation. A lot of the parcels have weird building envelopes that allow for very odd arrangements in backyards and serving accommodations for decks and/or pools. Our lot in particular is a pie shaped and is squeezed significantly in the rear which reduces the size of the lot causing density problems. Also, the shape of the backyard and the side lot makes it very difficult to put in the pool and enjoy our land the same as others might be able to with normal shaped RM-2 lots. The shape of the lot causes a hardship for us and caused the problem with our plan to build a pool. It is not the smallest lot in Trotter's Pointe by any means but is smaller than the standard lots in there.

The packet talks about concessions and we have made concessions with the pool company. We wanted a diving board and the company suggested a pool 20' x 40' and we actually worked with the company and reduced that size to 18' x 36' allowed by law. We made concessions on the size of the pool. We also moved the location of the pool as well per the Homeowner's Association approval. We moved it between 5'-7' back towards the house. We made a couple concessions in that area. We made sure we weren't doing anything crazy. We started out with overhead views of other properties in Trotter's Pointe that have pools and looked at the size of the lots and how they were set up. It is pretty easy to tell looking at that the vast majority of the pools required variances much larger than 11%. Considering our proposal, we feel the size of the pool, the size of the patio and the variance we are looking for is all consistent with other

homes in our neighborhood. We would like to enjoy our land similar to what others have in our neighborhood.

Commissioner Fogarty questioned where the pool drains to.

Mr. Field replied that my understanding with a pool of this size there is a drain in the bottom of the pool. So it is not a runoff drain. It is required to have a bottom drain.

Commissioner Rzyzi asked the applicant if he happened to count the number of pools in Trotter's Pointe.

Planner Blaha replied there are 23 pools in Trotter's Pointe Subdivision.

Commissioner Rzyzi confirmed that the applicant had received full Homeowner Association approval for the pool. He also noted he has been on the board for a while and it is not unusual for us to give these variances in Trotter's Pointe. The neighbor behind you has a pool as well. You did speak with your neighbors regarding this pool.

Mr. Field responded that they spoke to every one of the neighbors and have their full support. One home is vacant right now.

Commissioner Dunn again noted he did not vote on this at the Homeowner's Association approval.

Chairman Weipert summed up what we have heard so far is the history of Trotter's Pointe and it is the same thing we heard in the last case regarding that the subdivision had an agreement with the City so the request is not a problem caused by the applicant. The agreement with the City that resulted in a lot of odd shaped lots, pie shaped lots squeezed in the rear, lots below standard size and the neighborhood does have pools. That goes along with that you should be allowed to use your property consistent with your neighbors.

Commissioner Dunn noted there is an easement in the back of the yard and there is a drain at that corner.

Mr. Field replied that the drain is not on our property but is in the corner back there.

Commissioner Dunn responded that earlier we spoke about overflow and how far back is that drain.

Mr. Field replied the pool is 14.5' from the drain.

Commissioner Dunn confirmed the concrete will be 64" from your lot line.

Mr. Field responded correct. The underground part is less than the concrete on top. There is no concern in terms of it impeding on that 16' below ground. The wall of the pool is within the concrete above ground.

Commissioner Dunn inquired about a concrete drain just in the out chance that something would happen to make sure the overflow gets directed toward the detention area.

Mr. Field noted that with our topography, our land is the highest part to that drain. So if there were overflow it would naturally come onto our property and would come back down.

Chairman Weipert noted that we did have a case last year where we were worried about the pool and draining to the neighbor's yard. In that case we made them have a wall that drained toward the easement.

Commissioner Dunn noted that the way the property is shaped the water would naturally go that way. I am more concerned with the 25% lot coverage. There was something in the package that spoke about this property being a "builder approved" pool.

Planner Blaha noted it was not zoning approved, it was building approved. They look at if it meets building code not necessarily if it meets zoning ordinance. It did have approval and permit.

Chairman Weipert asked if anyone from the public would like to speak on the matter.

Mr. Matt Voight of 1195 Horseshoe Dr. stated that we share a backyard diagonally. I have no technical things to say about the grade or the property. All the neighbors including us support it. It will enhance the property.

ZBA CASE 2017:007 –TROY AND HOPE FIELD – 1102 POLO DR.

Motion by Rzyzi, supported by Mosier

Motion to approve ZBA Case 2017-007 approving a variance to allow a pool and surrounding

concrete patio resulting in lot coverage of 36.6% per Sec 102-456 "Schedule Limiting height, bulk, density and area by zoning district". Approving a variance of 11.6% as requested and approving for the following positions: Section 102-83 (e) subsection (1) a) that the need for the requested variance is due to the unique circumstances or physical conditions of the property involved such as narrowness, shallowness, shape, water or topography and is not due to the applicants personal or economic difficulty b) the applicant's property has a pie shape and has met that condition. In addition Section C; which called for strict compliance of regulations governing area setbacks and frontage etc. With the applicant's property, there is nothing about this regulation that would unreasonably prevent the property from being used as single family residence as it currently is and c) that the requested variance will not cause an adverse impact on surrounding properties, property values or the use or enjoyment of properties in the neighborhood for the zoning district for those conditions.

VOTE:

MOTION CARRIED UNANIMOUSLY

Commissioner Dunn noted the changes to the lot coverage. This case was 36.6% and in the future zoning will be 35% so we are in-directionally compliant with that.

Chairman Weipert reminded the applicant to get their building permit.

OLD BUSINESS

None

STAFF REPORTS

Chairman Weipert inquired if anything was coming up for the board?

Planner McIntyre noted that we do have a commercial building coming up for a variance 220 N. Mill Street. A storage unit on that property.

Planner Blaha noted that she will not be at the next meeting in August but will have everything ready to go for the meeting.

ZBA 8/17/17 – ADJOURNMENT

Motion by Fogarty, supported by Dunn

Motion to adjourn the meeting at 8:05 pm

VOTE

MOTION CARRIED UNANIMOUSLY

Respectfully Submitted,

Phil Weipert, Chairman

Marianne Jamison, Recording Secretary