



ZONING BOARD OF APPEALS

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ZBA 2013-65

Petition of Mark & Elizabeth Fahey
 62 High Ledge Avenue

Pursuant to due notice, the Special Permit Granting Authority held a Public Hearing on Thursday, September 12, 2013, at 7:30 p.m. in the Juliani Meeting Room, 525 Washington Street, Wellesley, on the petition of MARK & ELIZABETH FAHEY requesting a Variance pursuant to the provisions of Section XXIIB and Section XXIV-D of the Zoning Bylaw for installation of a 15 foot by 30 foot swimming pool with less than required left side yard and front yard setbacks, at 62 HIGH LEDGE AVENUE, in a 10,000 square foot Single Residence District, in a Water Supply Protection District.

On August 26, 2013, the Petitioner filed a request for a hearing before this Authority, and thereafter, due notice of the hearing was given by mailing and publication.

Presenting the case at the hearing were Mark and Elizabeth Fahey, (the "Petitioner").

Ms. Fahey said that they are hoping to be able to put a pool into their yard. She said that they have lived in town for 20 years and have three children. She said that their son has Cerebral Palsy and is in a wheelchair part of the time and has developmental delays. She said that over the years it has been becoming increasingly difficult to do things together as family in the summers. She said that the family has to split up a lot.

Ms. Fahey said that her son benefits a lot from water exercise. She said that they have thought about putting in a pool for a long time and investigated it this year.

Ms. Fahey said that they had spoken with the neighbors and they support the project.

Ms. Fahey said that they will need a variance on the side and in the front. She said that the side setback would be 7.75 feet, so they would need almost 3 feet of relief there. She said that they will need relief for approximately 3 feet to the street.

Ms. Fahey said that the only discrepancy on the plot plan and the plan from Central Pools is where the stairs will be. She said that they need to make the pool deep enough. She said that her son is 5 feet 9 inches and weighs close to 200 pounds. She said that his preferred means of entry is to jump into a pool instead of using stairs. She said that if they have a wide enough set of stairs, he could also use that. She said that they made the smallest pool that they could that would accommodate the 7 foot depth that they need. She said that the plot plan just shows a perfect rectangle. She said that the drawing from the pool

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company shows a 4 foot by 8 foot stair at the front that would add 4 feet to the front variance. She said that is their preference but they are willing to do it either way.

Ms. Fahey said that they submitted a letter from the doctor and from herself. She said that water exercise has been a big help for her son.

The Board discussed running the Variance to the property or to the Petitioner. The Board said that a concern is that the Fahey's will not always own this house. The Board discussed the option that once the house is sold, the pool would have to be filled in.

The Board asked if the pool could be moved closer to the deck or if the size of the deck could be reduced. Ms. Fahey said that there are plantings in between the proposed pool and the neighbor's garage. She said that they just built the deck within the past year. She said that they made it large so that they can get their son out in the wheelchair. She said that the stairs are wide in the event that they do need to ramp it. She said that there are cement footings to hold the deck.

Ms. Fahey said that there is 5.25 feet between the deck and the pool. She said that if they moved the pool over, the edge of the stair would be out of compliance with the distance that you need to have between a pool and a structure.

Ms. Fahey said that there will be a 6 foot stockade fence along the side and the back. She said that in the front they may add some features to make it more attractive. She said that they struggled with the idea that the pool may diminish their property value. She said that they want to make it as attractive as possible. The Board said that the bylaw provides for lighting and fencing requirements that must be complied with.

Ms. Fahey said that they are looking into decking materials around the pool. She said that the surface cannot be too slippery. She said that her son drags his feet so the material cannot be too bumpy.

Ms. Fahey confirmed that the approval was for the pool with the steps in front. The Board said that a revised plot plan should be submitted that shows the stairs.

There was no one present at the Public Hearing who wished to speak to the petition.

Statement of Facts

The subject property is located at 62 High Ledge Avenue, in a 10,000 square foot Water Supply Protection District.

The Petitioner is requesting a Variance pursuant to the provisions of Section XXIIB and Section XXIV-D of the Zoning Bylaw for installation of a 15 foot by 30 foot swimming pool with less than required left side yard and front yard setbacks.

A Plot Plan dated 7/27/13, stamped by Robert F. Drake, Professional Land Surveyor, Residential Variance Request from Elizabeth & Mark Fahey, Letter, dated 8/9/13, from Dr. Lori Gara-Matthews,

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PLANNING & ZONING OFFICE
150 STATE STREET
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Pediatric Health Care at Newton –Wellesley, Pool Plan and Typical Deck Cross Section, dated 8/14/13, prepared by ICC ES, and photographs were submitted.

On September 10, 2013, the Planning Board reviewed the petition and recommended that the Variance be granted.

Decision

This Authority has made a careful study of the materials submitted and the information presented at the hearing. The subject structure does not conform to the current Zoning Bylaw, as noted in the foregoing Statement of Facts.

It is the finding of this Authority that literal enforcement of the provisions of the Zoning Bylaw would involve substantial hardship, financial or otherwise to the Petitioner, owing to circumstances relating to the shape of the lot, especially affecting this lot but not generally affecting the zoning district in which it is located, and the hardship is not self created. The Board found that desirable relief may be granted without substantial detriment to the public good, and without nullifying or substantially derogating from the intent or purpose of the Zoning Bylaw.

Therefore, the requested Variance from the terms of Section XIX and pursuant to the provisions of Section XXIV-D of the Zoning Bylaw is granted to allow for installation of a 15 foot by 30 foot swimming pool with less than required left side yard and front yard setbacks, subject to the condition:

- A revised plot plan shall be submitted that shows the 4 foot by 8 foot stairs at the front of the pool.

The Inspector of Buildings is hereby authorized to issue a permit for construction upon receipt and approval of a building application and detailed constructions plans.

If the rights authorized by this Variance are not exercised within one year of the date time-stamped on this decision, they shall lapse and may be re-established only after notice and a new hearing pursuant to Section XXIV-D of the Zoning Bylaw.

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INSPECTOR'S OFFICE
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TOWN CLERK'S OFFICE
TOWN OF FAIRFIELD MA 02482

APPEALS FROM THIS DECISION,
IF ANY, SHALL BE MADE PURSUANT
TO GENERAL LAWS, CHAPTER 40A,
SECTION 17, AND SHALL BE FILED
WITHIN 20 DAYS AFTER THE DATE
OF FILING OF THIS DECISION IN THE
OFFICE OF THE TOWN CLERK.



Richard L. Seegel, Chairman



David G. Sheffield



Walter B. Adams

cc: Planning Board
Inspector of Buildings
lrm

