

**Miami Township
Board of Zoning Appeals
Monday, February 6, 2017**

Members of the Board of Zoning Appeals present:

James Hamilton, Chairman
Greg Clatterbuck
Richard Poore
John Broz
Fred Sinder

Members of Miami Township Staff present:

Robin Palm, Planner
Kyle Hinkelman, Deputy Director
Chris Snyder, Director
Dawn Frick, Township Legal Counsel

GENERAL MEETING

Mr. Hamilton called the meeting to order at 7:00 PM.

Action on minutes for January 3, 2017

Mr. Clatterbuck made a motion to approve the minutes from January 3, 2017. Mr. Poore seconded the motion and the vote was Mr. Clatterbuck, Mr. Poore, Mr. Sinder and Mr. Hamilton ayes and Mr. Broz who abstained from the vote. The motion passed.

THE OATH

Mr. Hamilton administered the Oath of Truth to the following people:

Ben Beyer, 2484 Addison Carlisle Rd, New Carlisle, OH
Jim Zengel, 6362 Karlsridge Dr, Dayton, OH
Robin Palm, Miami Township Staff, 2700 Lyons Road, Miamisburg, OH

NEW BUSINESS

BZA #810-17 Variance

Mr. Hamilton stated the case to be heard as BZA #810-17 filed by Don and Julie Ames, 6370 Karlsridge Dr, Miami Township, Ohio.

Mr. Hamilton asked Mr. Palm if the case had been properly advertised and the nearby landowners notified to which he replied they had.

Mr. Palm stated that the applicant is seeking approval of a variance of the side lot line requirements under Article 38, Section 3804. The applicant is requesting to construct a pool and pool house in the side yard.

Mr. Palm stated that the code requires all accessory structures and pools to be in the rear yard. The intent of the code is to keep buildings hidden from the roadway and to maintain good neighbor relations by not building too close to other houses. The applicant requested that they build a pool away from a swale in the rear yard and avoid cutting down the mature trees in the yard.

Mr. Clatterbuck asked what the slope in the back was. Mr. Palm confirmed that in his opinion it looks like six foot slope, but the contractor would be able to confirm this.

No further questions were asked of Mr. Palm.

Mr. Ben Beyer stepped forward and explained that he is representing the owners Don and Julie Ames as they were unable to attend the meeting. Mr. Beyer confirmed that he has been working with the owners and they would like to build a pool and a pool house structure that is open on four sides with a shingled roof to match the house. He stated the issues he sees with the property are the swale behind the house and two mature trees in the rear yard they would like to keep. The placement of the pool and pool house is to keep these structures out of the swale and away from the trees. Mr. Beyer felt that it would be a major issue to build where required because they would have to move the swale and cut down the trees, which would be very difficult to accomplish.

Mr. Clatterbuck asked if the pool could not be pushed back to meet the requirements. Mr. Beyer confirmed that it is possible if it was just the pool but the pool house would not be able to meet the requirement as configured.

Mr. Sinder asked if this is because it is too close to the property line, Mr. Beyer confirmed that if the pool house moved then it would be too close to the property lines to meet code.

Mr. Broz asked if the pool could be pushed back to meet the requirements if there was not a pool house. Mr. Beyer confirmed this and stated that the applicants would like to have the pool house. Mr. Beyer also explained if the pool and pool house were to be pushed back this becomes a long space away from the rear doors of the house.

Mr. Clatterbuck asked if all the landscaping as indicated on the plans will help block the view of the pool and pool house. Mr. Beyer confirmed that the landscaping will help screen the pool house from the street and the neighbor's house.

Mr. Clatterbuck asked what type of protection will be around the pool. Mr. Beyer stated that they will have a fence and a retractable electrical cover that is capable of locking.

No more questions were asked of Mr. Beyer.

Mr. Jim Zengel stepped forward and explained that he was a direct neighbor to this property. Mr. Zengel stated that he has no problems with the design and understands

that being a cul-de-sac it presents problems in regards to the design of the rear yard. He mentioned that the swales shown were from the original construction and they are now more concentrated to get the water to flow around the house. Mr. Zengel also noted that they have already lost a large number of trees due to disease and would like to save as many existing trees as possible.

Mr. Clatterbuck asked if the pool would cause any problems as it is facing Mr. Zengel's yard. Mr. Zengel stated that he has looked out on the property for twenty years and he felt that it will look better with the landscaping. He also confirmed that he feels it will be a nice addition for the house and will not detract from his house or affect the value of his property.

No more questions were asked of Mr. Zengel.

Mr. Hamilton asked if there was anyone else present to speak in favor or opposition to this case or if there were any other public comments and no one came forward.

The Board discussed the case.

The Board proceeded to vote on the following findings of fact:

- A. The variance requested will adversely affect the public health, safety, or morals.
Sinder: N Clatterbuck: N Hamilton: N Broz: N Poore: N

- B. The strict application of the provisions of this Resolution from which a variance is requested will constitute unnecessary hardship upon the property owner.
Sinder: Y Clatterbuck: Y Hamilton: Y Broz: Y Poore: Y

- C. The variance requested will compromise the general spirit and intent of this Resolution.
Sinder: N Clatterbuck: N Hamilton: N Broz: N Poore: N

- D. The variance arises from special conditions, which are unique to the property and the situation results from an enforcement of this resolution and not by actions of the property owner or any party who has had control of the property.
Sinder: Y Clatterbuck: Y Hamilton: Y Broz: Y Poore: Y

- E. The variance requested does not involve extension of an existing structure into a required yard in excess of one-third (1/3) of the required depth or width of the required yard and is a permitted variance under Subsection 403-B.

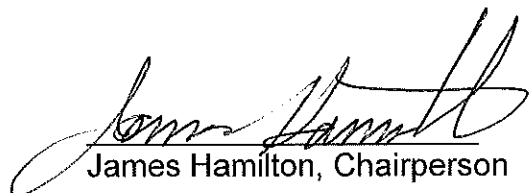
Sinder: Y Clatterbuck: N/A Hamilton: N/A Broz: Y Poore: N/A

Mr. Broz made a motion to approve case 810-17 based on the findings of fact and exhibits A-E. Mr. Clatterbuck seconded the motion and the vote was all ayes.

Additional Business Items and Announcements:

None were discussed.

Mr. Hamilton motioned to adjourn the meeting at 7:45 p.m. and the vote was all ayes.


James Hamilton, Chairperson

Respectfully Submitted,
Sarah Hone, Recording Secretary

4-3-17
Date