

**CITY OF KEEGO HARBOR
ZONING BOARD of APPEALS MEETING MINUTES
Thursday, August 17, 2023**

CALL TO ORDER

Mayor Kalman called the meeting to order at 6:00 PM.

ROLL CALL

Present: Mayor Pro Tem Attisha, Council Member Karson, Council Member Shimansky, Mayor Kalmam

Absent: Council Member Lampl

Motion by Council Member Shimansky, supported by Council Member Karson to excuse Council Member Lampl.

Unanimous Vote Ayes: 4 Nays: 0 Motion carries

Staff Present: City Manager/City Clerk Tammy Neeb, Deputy Clerk Stacy Goodall, City Attorney Tony Chubb, City Planner Stephanie Osborn

APPROVAL OF AGENDA

Motion by Mayor Pro Tem Attisha; supported by Council Member Karson to approve the July 20, 2023, ZBA meeting agenda.

Unanimous Vote Ayes: 4 Nays: 0 Motion Carries

APPROVAL OF MINUTES

Motion by Mayor Pro Tem Attisha; supported by Council Member Karson, to approve the Zoning Board of Appeals meeting minutes from July 20, 2023.

Unanimous Vote: Ayes: 3 Nays: 0 Motion carries

Mayor Kalman did not attend the July ZBA meeting therefore he did not vote.

PUBLIC COMMENTS

No one addressed the Board Members

NEW BUSINESS

1788 Cass Lake Front – Pool Setbacks

City Planner Stephanie Osborn reviews the applicant's 3 variance requests. She also explained the five criteria the council will need to consider before deciding. Jacob Lubig 29454 Hass Rd. Wixom, MI – Ventures Design and Build. Mr. Lubig addressed each of the five criteria as they pertain to the requested variances.

1. A variance from the requirements of section 15.11(c) to permit a projection into the waterfront yard of 70'6" instead of the permitted 30' for a variance of 40'6".

- a. Strict compliance with restrictions governing area, setback, frontage, height, bulk, or density will unreasonably prevent the owner from using the property for a permitted purpose or will render ordinance conformity unnecessarily burdensome.**

The house is already non-conforming which makes the lot non-conforming. Mr. Lubig explained to comply with the clear vision triangle everything will have to stay below 3 feet and due to the grading, the design must extend into the yard. The council members discussed a possible design change or a lesser variance. A pool is not a necessity therefore it is not burdensome. It was brought to the council's attention that there is a property with a pool that extends into the waterfront yard. This other property will be investigated as to how it pertains and how the ordinance was interpreted at the time of approval before making a decision.

- b. A grant of the variance will do substantial justice to the applicant as well as to other property owners in the district, and a lesser variance will not give substantial relief to the applicant as well as be more consistent with justice to other property owners in the zoning district.**

A lesser variance would give the applicant substantial relief.

- c. The plight of the applicant is due to the unique circumstances for the property.**

The property is non-conforming, so the plight is due to the unique circumstances of the property.

- d. The problem is not self-created.**

The council disagreed that this is not a self-created problem. Choosing to put a pool on a property that does not have room for a pool is self-created. However, people are allowed to have a pool. The opposing argument then is that the problem

is due to the home being non-conforming, the size of the lot, and the grading, therefore this is not self-created. No indication of a decision on this criterion.

- e. The spirit of this ordinance will be observed, public safety and welfare secured, and substantial justice done.**

With a lesser variance, it would be possible for the spirit of this ordinance to give substantial justice.

2. A variance from the requirements of section 15.11 (c) to permit a patio to extend closer than the required setback of 3' from the south side lot line. The patio is proposed to be approximately 1' from the lot line there for requiring a 2' variance.

- a. Strict compliance with restrictions governing area, setback, frontage, height, bulk, or density will unreasonably prevent the owner from using the property for a permitted purpose or will render ordinance conformity unnecessarily burdensome.**

Discussion regarding this variance is difficult without a survey. The council requested a survey but continued the discussion based on the documents provided. The patio and walkway are flush to ground level according to Mr. Lubig. The council indicated that strict compliance with the requirements may be unnecessarily burdensome.

- b. A grant of the variance will do substantial justice to the applicant as well as to other property owners in the district, and a lesser variance will not give substantial relief to the applicant as well as be more consistent with justice to other property owners in the zoning district.**

There is already an existing patio so a lesser variance will not give substantial relief to the applicant.

- c. The plight of the applicant is due to the unique circumstances for the property.**

The plight of the applicant is due to the unique circumstances.

- d. The problem is not self-created.**

The Council agrees that this problem is not self-created.

- e. The spirit of this ordinance will be observed, public safety and welfare secured, and substantial justice done.**

Mayor Kalman stated that he feels that the spirit of the ordinance will be observed.

3. A variance from the requirements of section 15.13(i) to permit pool equipment/pad to extend closer than the required setback of 3' from the north side lot line. The pad is proposed to be 4' wide and extend from the house to the lot line. This is a variance of 3'.

- a. Strict compliance with restrictions governing area, setback, frontage, height, bulk, or density will unreasonably prevent the owner from using the property for a permitted purpose or will render ordinance conformity unnecessarily burdensome.**

The pool equipment will be placed next to existing utility units and there will be approximately a foot to get around it. Since there is room to get around the equipment the council agrees with this criterion.

- b. A grant of the variance will do substantial justice to the applicant as well as to other property owners in the district, and a lesser variance will not give substantial relief to the applicant as well as be more consistent with justice to other property owners in the zoning district.**

Council agrees that it does seem to be the best place for the equipment, and it will not burden the neighbors.

- c. The plight of the applicant is due to the unique circumstances for the property.**

The council will need a survey. A decision was not made at this time.

- d. The problem is not self-created.**

This was not discussed.

- e. The spirit of this ordinance will be observed, public safety and welfare secured, and substantial justice done.**

This was not discussed.

The council would like to table this case and allow the applicant to make revisions. Mr. Lubig – When the property to the south was built this further limited the space. The applicant will need to discuss revisions with the city planner.

Motion by Council Member Shimansky; supported by Council Member Karson to table this and allow the applicant to rework their plans and obtain a survey.

Roll Call: Mayor Pro Tem Attisha yes, Mayor Kalman yes, Council Member Shimansky yes, Council Member Karson yes. *Motion Carries*

ADJOURNMENT

Mayor Kalman adjourned the meeting at 6:37 p.m.



Robert Kalman
City of Keego Harbor, its Mayor



Stacy Goodall
City of Keego Harbor, its
Deputy Clerk

