***Paul and Melissa Curley***

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**TO: ZONING BOARD OF APPEALS**

**DATE: May 25, 2021**

**RE: 211 Kuyper Dr - Application for Exterior Renovation (In Ground Pool)**

**NARRATIVE**

We have submitted an application to build an in ground pool, and herewith submit an updated Site Plan, along with an application to the Zoning Board of Appeals to request an area variance with respect to the rear lot line.

**Procedural Background**

On April, 20, 2021, we appeared before the Zoning Board of Appeals to request an interpretation of the Zoning Ordinance regarding the required rear yard set-back. We withdrew that request, and we have acknowledged that a variance will be required with respect to the rear setback.

On May 19, 2021, we appeared before the Planning Board and received comments from such Board and the Village Engineer, neither of whom expressed any concerns regarding the proposed location of the pool. The Planning Board referred the application to the ZBA and the ARB.

**Request for Variance**

Based on preliminary feedback from the ZBA at the April 20 meeting, and no objections being received from the Planning Board or Village Engineer at the May 19 meeting, we are requesting a variance of 15 feet from the rear lot line, measured from the decking area around the pool, where 30 feet is deemed to be required.

**Summary of Project**

We propose to build an in ground swimming pool in our backyard. The pool will be built by B&B Pool & Spa Center, an experienced builder.

The pool will be a vinyl pool in a style known as “Mountain Lake” designed by Imperial Pools. The shape is intended to evoke a natural pond or lake, which we consider appropriate for the setting. It will be surrounded by a decking to be made of pavers (Cambridge Brand “Toffee Onyx Light”, or similar).

Other details to include the following (or reasonably equivalent / similar):

* Vinyl covered 4x8 steel steps
* Minimum 8” thick 3000 psi concrete footing around base of walls
* Aluminum extrusion liner retainer
* 4 full-flo directional pool returns
* 2 commercial grade wall skimmers
* 2 safety main drains, VGB compliant
* 1 automatic pool cleaner line
* Minimum 2” rigid schedule 40 PVC
* 1 Pentair S-SVRS variable speed pump
* 1 Pentair 520 sq ft Clean and Clear filter
* 1 Pentair 400,000 BTU heater pump
* 1 Pentair multi-color LED light
* Polaris model 5TR (280), automatic pool cleaner
* Bullnose paver brick on reinforced concrete footing

There will be no diving board, slide, waterfall, hot tub or other special features.

The areas immediately around the decking will remain as a grass lawn.

The swimming pool area will be enclosed by a fence (depicted in the Site Plan) that complies with applicable codes relating to swimming pools (with the north side being also enclosed by the house – all doors and windows with have locking mechanisms in compliance with applicable codes). The fence will be constructed by Fesco Fence. The south, west and north sides of the fencing will be a 6 foot high privacy wood fence. The east side of the fence will be a 4 foot high post-and-rail style fence. There will be a garden bed along the south side of the fencing, that will feature a variety of vegetation (details TBD, but will include a mix of evergreen and deciduous trees and shrubs), which will create an additional buffer between our property and the property to the south.

A drainage report has previously been submitted as part of the original application. There is currently a drain pipe running under the back yard, as part of an existing French drain system. This will need to be relocated as part of this project, as indicated in the Site Plan.

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**ATTACHMENT TO ZONING BOARD APPLICATION**

The applicable zoning regulations cause practical difficulty since the only appropriate location for a swimming pool on our property would result in a portion of the pool area to be located within the required rear yard setback of 30 feet.

**1. Will an undesirable change be produced in the character of the neighborhood or a detriment to nearby properties be created by the granting of this variance?**

This granting of this variance will not produce any change in the character of the neighborhood, nor any detriment to nearby properties. The pool would be located a reasonable distance from the adjacent property. Furthermore, it will be not be visible to the adjacent neighbors as it would be shielded by a 6 foot high privacy fence.

**2. Can the benefit sought by the applicant be achieved by some method, feasible by the applicant to pursue, other than an area variance?**

The benefit cannot be achieved by any other feasible method. It would not be ideal (or particularly appropriate) to locate the pool in either side yard. The east yard is heavily wooded and on a slope. The west yard is on Palmer Drive and is therefore essentially a front yard. In addition, neither of these side yards affords sufficient visibility from the house to the pool.

In addition, to the extent located in the rear yard, the pool should not be located any closer to the house, as that could raise concerns regarding visibility, safety and aesthetics.

**3. Is the requested area variance substantial in relation to the zoning code?**

The requested area variance is not trivial, but it is also not substantial. Although the requested area variance is 50% (15 feet where 30 feet is required), this still leaves 15 feet of set-back which is a reasonable distance between pool decking and the rear lot line.

**4. Will the proposed variance have an adverse effect on the physical or environmental conditions of the neighborhood or district?**

The proposed variance will not have an adverse effect on the conditions of the neighborhood. It will not require any material alteration to the environmental conditions (other than replacing a patch of open lawn with a pool/deck), grading will remain essentially as is, and runoff will continue toward the east.

**5. Is the alleged difficulty self-created?**

The alleged difficulty is self-created to the extent that we would like to build a pool in our backyard, however, it is not self-created to the extent that there is no other suitable location for a pool on our property.

**6. Is the requested variance the minimum necessary to relieve the practical difficulty?**

Yes, the requested variance is the minimum necessary. If the pool area were located any closer to the house, it could raise concerns regarding visibility, safety and aesthetics.

**7. Would a significant economic hardship result if this variance were not granted?**

If the variance were not granted, we will not be able to build a back yard pool, at least not in a reasonable location. Being restricted from building a pool might negatively affect our property value, although probably not significantly.

**8. Given that governmental facilities and services are available to this property, will the granting of this variance effect the health, safety and welfare of the neighborhood or district?**

The granting of this variance will have no effect on the health, safety or welfare of the neighborhood, except potentially positive effects.

**9. If this variance is granted, will the effect of the increased population density produced on available governmental facilities, services, and schools be small or great?**

The granting of this variance will have no effect on the population density or on government facilities, services or schools.

**10. Other factors that the applicant may wish the Board to consider.**

The adjacent property (220 Jewett Road) features a very densely wooded rear yard, and a house which is set back a significant distance from the common rear lot line.

Therefore, whether our pool is permitted to be located 15 feet from the rear lot line -- or even less -- it would have almost no visual or other impact on their property. To our knowledge, the owners of such property have expressed no opposition to a proposed pool and, in general, our neighbors have been very supportive of our proposal.

In conclusion, the granting of this variance will help to improve our property, the neighborhood and the community as a whole, and will have no detrimental effect of any kind.