

Board of Zoning Appeals

July 18, 2019

Members present: Chairman, Phil Rooney; Blaine Wells; Brett Gies; David Russell; and Sarah Gillespie

Mr. Rooney called the meeting to order at 6:00 p.m.; introduced the members to the audience and the general rules were reviewed.

Mr. Rooney announced that the cases for the Adams project, (case 58538-BA-19 & 58552-BA-19), the old St. Michael's School, has been moved and will be heard at the August 8, 2019 meeting at 6:00 p.m.

The following was introduced by Mr. Erik Adkins:

Case Number: 58547-BA-19

Address: 2227 Honeytree Court

Zone: R-1 Single Family, Low Density

Filed by John Dale, regarding a variance from section 1163.12(B)(1)(a) of the City of Findlay Zoning Ordinance concerning a proposed swimming pool at 2227 Honeytree Court. The applicant is constructing an in-ground swimming pool and requesting to use an automatic pool cover in place of the required perimeter fencing. This section requires that access to all in-ground pools shall be restricted on all sides by an approved fence of a minimum of 42-inches.

The submitted plans for the in-ground swimming pool permit included a fence around the perimeter of the pool, which led to approval. The zoning code requires a fence be erected to provide safety measures while the swimming pool is not in use, to prevent accidental drownings. The city remains adamant that the safety feature of a fence must be a requirement.

Mr. Dennis Brown of Elite Pools and Spas, representing the home owners, stated that he understands the city's ordinance on pool requirements as a sure-fire way to secure a pool; however, a 42-inch fences can be climbed over. He stated the automatic pool cover is a safety cover and the only way someone is going to get into the pool with an automatic pool safety cover is to either have the code or to cut the cover with a knife. He stated that a lot of communities have adopted legislation to allow the automatic pool covers to be used in lieu of fences. In addition to the safety issues, the home owners do not want to obstruct the view behind their house by putting up a fence.

Mr. David Russell asked Mr. Brown if the material used is a vinyl? Mr. Brown stated it is a real heavy gauge vinyl that has a 10-year life expectancy before it needs to be replaced.

Mr. Blaine Wells asked if a code must be entered to open the cover?

Mr. Brown stated yes; but there are extra safety measures that can be taken such as a gang box with a lockable lid to prevent access to the code box.

Ms. Sarah Gillespie asked what happens if someone walks on the automatic pool cover?

Mr. Brown stated it would be like walking on a waterbed.

Mr. Wells asked what the weight limit is on the covers?

Mr. Brown stated he has a picture of about 2000 pounds of contractors standing on one and it supports them; so approximately a small car weight.

Kyle Inbody read a letter via email from Cathy Weygandt into record.

No other communications were received on this case.

Mr. Wells stated that safety is the number one concern and he struggles with replacing one safety mechanism with another. "Is the code going to be punched in to close the cover every time you walk away from the pool?" He stated he is struggling to be in favor to approve a variance on an ordinance that is in place for safety, to protect someone from access to that pool and drowning.

Mr. Rooney stated that this request for a variance is actually a request to change the city ordinances and that is above their pay grade. He suggested they take this to City Counsel to request the ordinance be changed to allow this as an alternative to fencing. This board's job is not to change the city ordinances.

Mr. Wells stated that moving a fence or shortening a fence is within their privy but completely eliminating a fence is not. That would be changing an ordinance which they cannot do.

Mr. Brown stated he is not asking to change the ordinance; no township or municipality around has changed their ordinance and has granted the luxury of the automatic pool cover and it is a guaranteed way to keep anybody out of the pool, a fence is not, and it is guaranteed safe.

Mr. Brett Gies stated he has to disagree with Mr. Brown's statement that this is guaranteed to be safe; and he is asking the board to change the ordinance since it is a requirement to have a fence. If they grant this request, the next people requesting the same may not have as good of a pool cover, and this would be opening up other issues.

Mr. Brown stated that this is an ICC registered product which has a certain criteria of quality measures built into the system.

Mr. Wells stated the request does not follow the intent of the ordinance and therefore made a motion to deny the request for a variance.

Mr. Russell seconded the motion.

Motion to denied request for variance 5-0.

Mr. Rooney suggested they contact their city Counselman and see about changing the Zoning code if that's what they want to do; that is not something they are capable or willing to do at this point.

Minutes for June 13, 2019 Board of Zoning Appeals meeting approved 3-0.

The meeting was adjourned.



Chairman



Secretary