



MINUTES

THOMAS TOWNSHIP ZONING BOARD OF APPEALS
PUBLIC SAFETY BUILDING, 8215 SHIELDS DRIVE, SAGINAW, MI 48609
May 22, 2018 - 4:00 P.M.

1. The Board of Appeals meeting was called to order at 4:00 p.m. by Chairman Steve Witt.

Present: Rod Iamurri, Steve Witt, and Rene DeSander. Also present were Dan Sika, Community Development Director and Connie Watt, Planning Assistant/Code Enforcement Officer, Tiffany Feldkamp and several interested parties

Absent: Mike Thayer and Don Milne.

2. **Pledge of Allegiance.**
3. **Approval of the Minutes.**

Motion by Iamurri seconded by DeSander to approve the minutes of the April 10, 2018 meeting as presented. Motion carried unanimously.

4. **Hearings:**

A. Ms. Tiffany Feldkamp of 7 Hearthstone Place, Saginaw, Michigan is seeking a variance to Ordinance Section 3.2, subsection (i), 1.), which specifies a requirement for the installation of a four foot (4') high fence around in-ground pools along with a self-closing, self-latching device for keeping the gate or door securely closed at all times when not in use.

Sika explained that applicant had contacted the office and would be late, no further information was given. He told the ZBA they could proceed based on the information in the file or postpone until a later date. It was decided to proceed.

Witt opened up the hearing to public comment at 4:01 p.m. There was none. Public comment was closed. William Stein of Cherokee Pools did provide a copy of the brochure for this particular "Coverstar" Pool Cover. Sika explained that the request before the ZBA was basically the same as the one from about a month ago. However, from then until now the Township has reached out to the Township Attorney and insurance carrier for recommendations. The Township Attorney does feel that the Planning Commission should be looking at this Ordinance section since this has come up twice within two months something either needs changed or the ordinance is fine and you would have to look at this request at that time based on its merits. The Planning Commission should be doing the review and if they change it to nullify this case then they would not need a variance or it could go the other way. However, that is my recommendation and from the attorney. Witt noted that the Building Code allows for these pool covers but the ordinance calls for a fence. He added that they just approved a variance last month for the same thing and set a precedence. Sika noted that it was based on different criteria. Witt questioned William Stein of Cherokee Pools as to if this was the same cover. Stein answered it was. Iamurri stated that the ZBA went through detailed information at the last meeting about this pool cover and they all agreed variance should be granted. He added that the Planning Commission will be having a conversation about this ordinance section at their June 20th meeting. He also reiterated that if there was no fencing required for a large pond he could not understand why fencing is required for a pool and these covers weren't acceptable. DeSander said that in the memo noting the opinion of the Township Attorney he states that the Township must enforce the Building Code which allows for these covers. It goes on to say that this is guided by state law which supersedes local ordinances. He feels there is no sense in detaining people. A precedence was set. It's okay for the Planning Commission to review the ordinance section, however at this time we (the ZBA) need to support this request. Sika did add that after the Township Attorney wrote this opinion he did recommend reaching out to the insurance carrier and no definitive answer has been received as to any liability of the Township. He said they certainly have a right to proceed but the Township Attorney did recommend tabling the request and letting the Planning Commission take a look at the ordinance and gather all the information that they currently do not have and don't know as of now to decide if the ordinance is fine or needs changed. DeSander felt this could take 3-4 months. The pool is set to go in very soon. At this time, 4:10 p.m., the applicant, Tiffany Feldkamp, arrived. She stated she felt this was the safest option for covering the pool. Witt questioned the ZBA if there was any reason they felt they should adjourn this for now. Both Iamurri and DeSander felt there was not.

At this time the ZBA members answered the questions as listed under “Basic Conditions” and “Special Conditions” of the Zoning Board of Appeals Checklist. The results were as follows:

ZONING BOARD OF APPEALS CHECKLIST

(A variance will only be granted if all of the following Basic Condition questions are answered “yes”)

BASIC CONDITIONS

The Zoning Board of Appeals shall have the power to authorize, upon an appeal, specific variances from such requirements as lot area and width regulations, building height and bulk regulations, yard and depth regulations, and off-street parking and loading space requirements, provided that all of the Basic Conditions listed below are answered “YES” and one (1) of the Special Conditions listed thereafter can be satisfied;

- 1. Has the Applicant demonstrated that this variance is not contrary to the intent and purpose of the Zoning Ordinance? Explain.

YES ³ NO

- 2. Has the Applicant proven that a variance will not adversely impact adjacent properties? Explain.

YES ³ NO

- 3. Has the Applicant proven that a variance would not produce a nuisance condition to nearby premises? Explain,

YES ³ NO

- 4. Is the basis for the proposed variance unique and not shared by other properties in the same Zoning District throughout the Township? (If the Board of Appeals finds that the hardship is not unique, but common, then an amendment to the zoning ordinance or a re-zoning should be pursued.)

YES ³ NO

- 5. Has the Applicant shown that a variance will not otherwise impair the public health, safety, or general welfare of the residents of Thomas Township?

YES ³ NO

SPECIAL CONDITIONS

When all of the foregoing Basic Conditions can be satisfied, a variance may be granted when any one of the following Special Conditions can be clearly demonstrated:

1. Are there non-economic practical difficulties or unnecessary hardships, which prevent carrying out the strict letter of this Ordinance? Explain.

YES ³ _____ NO _____

2. Are there unique or extraordinary physical conditions that do not apply to other property or uses in the same zoning district and were not caused by an act of the applicant? Explain.

YES _____ NO _____

3. Is the variance necessary to preserve a substantial property right possessed by other properties in the same zoning district? Explain.

YES _____ NO _____

Motion by Iamurri, supported by DeSander to approve a variance for Tiffany Feldkamp of 7 Hearthstone Place to allow the use of a “Coverstar Automatic Cover” for her proposed in-ground swimming pool in lieu of the fencing requirement as detailed in Section 3.2(i) 1) of the Thomas Township Zoning Ordinance. Vote was as follows:

Yes-Iamurri, DeSander, Witt
No-None
Abstain-None

Motion carried unanimously.

Motion by Iamurri, supported by DeSander to send the topic to the Planning Commission For review. Motion carried unanimously.

6. **Old Business** – None
7. **New Business-None**
8. **Adjournment**-a motion was made by Iamurri and supported by DeSander for adjournment of the meeting at 4:15 p.m. Motion carried unanimously.

Respectfully submitted by Connie Watt, Planning Assistant/Code Enforcement Officer.

