

**CITY OF MASON
ZONING BOARD OF APPEALS MEETING
MINUTES OF SEPTEMBER 14, 2011**

Jenkins called the meeting to order at 5:30 p.m. in the 2nd Floor Training Room at 201 W. Ash Street, Mason, Michigan.

Board Member(s) Present: Jakeway, Jenkins, McCormick, Richards
Board Member(s) Absent: Crips, Curtis, Harbach
Also present: David Haywood, Zoning and Development Director

APPROVAL OF MINUTES: August 10, 2011

The minutes of the August 10, 2011 meeting were approved as presented.

PEOPLE FROM THE FLOOR

None.

REGULAR BUSINESS

Variance – 448 Raging River – Rear Yard Setback

Jenkins opened the public hearing at 5:34pm. Jenkins informed the applicant that a full board was not present, indicating that it takes four positive votes to grant a variance, and offered the applicant the opportunity to adjourn to another time where a full board would be present. The applicant declined the offer to adjourn to a full board.

Jenkins invited comments from the applicant and asked to present information relative to the request and address the standards of approval.

Karin Manes (applicant), 448 Raging River, introduced herself to the Board and provided the following comments:

- They built house and have lived at the residence for 12 years
- They would like to stay in the community and be able to teach their grandkids how to swim
- There are seven other pools in the subdivision, one with a 10 foot rear yard setback at 461 Raindrop Ct.
- The homeowner's association did not object to the proposal
- The site backs up to a common area at the rear of the property
- There have not been flooding issues in the rear yard
- The Drain Commissioner was contacted and did not object to the proposal
- The pool will have a steel and liner type surface
- The proposed pool house can be five feet from side and rear lot line
- The side walls of the pool will be greater than 42 inches and will be fenced

Commissioners asked the applicant to demonstrate if they have a practical difficulty related to the proposal. The applicant (Mrs. Manes) provided the following response:

- They cannot move to a location that would permit the proposed pool given the state of the economy.

- They can't have the pool if they cannot put it in the rear yard.
- The pool will be an improvement to the neighborhood
- The pool will be attractive and include landscaping
- The pool will be enclosed with an aluminum (iron style) fence.
- The request complies with Section 94-365 #4.

Don Gailey, 452 Raging River, spoke in support of the variance request and felt the pool will be well maintained by the Manes.

Mr. Jenkins read into the record the letter from Lynda Inman of 449 Raging River which offered no objections to the proposal.

Being there were no other public in attendance to provide comments, the public hearing was closed at 5:50pm.

MOTION by Jakeway, second by Richards,
to introduce and consider Resolution 2011-06 as having been read.

MOTION APPROVED UNANIMOUSLY

**CITY OF MASON
ZONING BOARD OF APPEALS RESOLUTION NO. 2011-05**

A RESOLUTION APPROVING A 24.71 FOOT REAR YARD VARIANCE FOR AN IN-GROUND POOL ON PROPERTY LOCATED AT 448 RAGING RIVER

September 14, 2011

WHEREAS, a request has been received by Robert and Karin Manes, the owner of record of parcel 33-10-10-05-227-003, for a variance to the rear yard setback requirement to construct an in-ground pool on property located at 448 Raging River; and

WHEREAS, the subject property is further described as: Lot 25, Riverwalk Meadows, Sec 5, T2N R1W, City of Mason, Ingham Co (1997); and

WHEREAS, the subject property is located in the RS-2: Residential Single Family zoning district; and

WHEREAS, Section 94-173(e) requires that pools meet the applicable setback requirement for principle structures for the zoning district in which they are located; and

WHEREAS, Table 100-1 of the Mason Code requires a 35 foot rear yard setback for principle structures within the RS-2: Single Family Residential zoning district; and

WHEREAS, upon compliance with the conditions of approval listed herein, the variance request will comply with the conditions of approval in Section 94-365 of the Mason Code; and

WHEREAS, a public hearing on the request was noticed and held at the Zoning Board of Appeal's regular meeting of September 14, 2011, with testimony given and public comment solicited in accordance with Section 94-101 of the Mason Code.

NOW THEREFORE BE IT RESOLVED, that the City of Mason Zoning Board of Appeals does hereby approve the request for variance to the rear yard setback requirements to allow the construction of an 16 foot by 36 foot in-ground pool in the rear yard behind the existing residential structure that would be 10.29 feet from the east property line on property located at

448 Raging River as based on the plans received by the Zoning & Development Department on August 12, 2011.

McCormick stated that there appears to be more than enough distance between the subject lot and the neighbors on Windjammer.

Richards stated that she agreed with McCormick's comment.

Jenkins countered that he does not see a practical difficulty on the lot.

Jakeway stated that denying this request doesn't make sense in this case.

Kirk Lapham, 4540 Misty Wood Dr., Okemos, (Karen and Robert Manes' son-in-law) was allowed to speak on the issue and stated setbacks are intended to protect neighbors and that the common area behind the lot meets the intent of the setback requirement. He also mentioned that the setback standard may be currently under reconsideration by the Planning Commission. The vast majority of lots in the neighborhood present a similar constraint relative to pools and setbacks.

Yes (3) McCormick, Jakeway, Richards

No (1) Jenkins

VARIANCE DENIED

Zoning Board of Appeals Bylaws

Haywood reported that after considerable searching of City records and consulting with the City Attorney he had concluded that bylaws do not exist for the ZBA. He further stated that zoning ordinance and the rules of order should be sufficient for the ZBA to recommend Council remove a member for various reasons and that pursuing bylaws may be more effort than they were worth. The Board agreed to not pursue the issue at this time.

UNFINISHED BUSINESS

None.

NEW BUSINESS

The Board requested staff to research the claims made by the Manes regarding the pool at 461 Raindrop Ct.

CORRESPONDENCE

None.

ADMINISTRATOR'S REPORT

Haywood gave a brief report of Zoning and Development business.

ADJOURNMENT

By consensus, the meeting adjourned at 6:16 p.m.

Deborah J. Cwierniewicz, City Clerk