

**VILLAGE OF GRAND BEACH  
ZONING BOARD OF APPEALS HEARING  
JUNE 17, 2020**

President Deborah Lindley called the electronic (virtual) Zoning Board of Appeals Hearing to order at 7:00 P.M. EST. Roll call was taken and in addition to Lindley, James Bracewell, Paul Leonard Jr., Blake O'Halloran and Steve Slater were present.

Bracewell moved, seconded by Lindley to adopt the agenda as presented.

Roll Call Vote

Paul Leonard	Aye
Deborah Lindley	Aye
Blake O'Halloran	Aye
Steve Slater	Aye
James Bracewell	Aye

Motion carried unanimously 5-0.

**Applicants:** Lewis and Anne Kostiner requested a variance to install a swimming pool on their property.

**Property:** 50236 Marjeanette Avenue. The property is described as lot 215, amended plat of lot 193 and a vacated portion of Calla Avenue of New Park Addition to Grand Beach Springs.

The property is located in the medium density residential district.

**Property Tax Code:** 11-39-5252-0215-00-0

**Variance Requested:**

Article V, Section 5.06, Item E.1 of the Zoning Ordinance requires a minimum front yard setback of thirty (30) feet from the street right-of-way line.

The petitioner is requesting a variance of six feet nine inches (6' 9") from the minimum front yard setback requirement of 30' along Calla Avenue for a swimming pool. If granted, the variance will allow for the swimming pool to be built 23' 3" from the property line along Calla Avenue.

Lindley explained that the applicants submitted an application for a variance to build a swimming pool on their property and added that the proposed pool would be located 34' from Calla.

Lindley opened the public hearing and there were no comments. Public hearing was closed.

Building Commissioner Bracewell said that he spoke with Mr. Kostiner after the meeting that was held in November when the applicants requested two variance requests to build a swimming pool. Since then, he said the applicants have made changes to lessen the variance needed and only require one variance for the proposed pool.

Bracewell said that the demonstrated facts include:

- It is an odd shaped lot
- 33% slope in topography
- The 33% slope is considered a critical dune and was man made.
- The current lot owner received permission from the Department of Environmental Quality (DEQ) to build a house on the lot.

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- The owner of the lot has requested a variance to put in a pool.

The applicants initially requested variances along Perkins and Calla. The request has been changed to request only one variance on Calla and that variance request was reduced by almost 50% to a variance request of six feet nine (6' 9") from the original variance request of 13' on Calla Avenue.

Bracewell said the application and fees have been received by the Village and he believes the applicants have done everything they can to comply with the Village zoning ordinance and Environment Great Lakes & Energy (EGLE), formally Department of Environmental Quality (DEQ) to be granted a variance for a pool.

The ZBA reviewed the Findings of Fact that were presented at the November meeting and added information regarding the following questions in the specific sections of the Findings:

Section II - Is it reasonable for the applicants to expect another variance since they received variances to build their home?

At first glance the answer would be no because the applicants were given a variance to build their home and told specifically there would be no variance for a pool especially with a variance request on Perkins. The applicants have removed the setback variance request for Perkins and reduced the variance request on Calla by almost half. In the past, the ZBA has worked with residents to provide safe variances.

Section III - Would the denial entirely prevent the applicant from building a pool on that lot or would it simply force the applicant to build a slightly smaller pool within the setbacks with no variance needed?

A Literal interpretation of the ordinance provisions would deprive the applicant of the right to have a pool. There is no clear need for a pool, but again the applicant made changes to accommodate our previous request.

Section IV - Are there other options for the applicant that do not require a variance or require less of a variance?

Yes, but it would leave an unsafe pool if they built a triangular pool in the original location presented in November. Applicants feel that the initial triangular pool that did not require a variance would be dangerous because it would be located within 10' of the doors to the home and there is not an option for a hard cover on a rectangular pool. The applicants proposed moving the triangular pool away from the doors which would now require a variance.

Section VI (d) – Are there any safety concerns even with a fence in place?

The ZBA has worked in the past with a homeowner in the older section of the Village. The main concerns of safety along Perkins and the corner of Calla have been addressed. The concerns from a neighbor about pool water drainage have been addressed and we have not heard anything else from them.

As a Zoning Board of Appeals, we are very rigid with our zoning variances. We have spent a lot of time writing the Zoning Ordinance and amending it to make sure there is public safety and no infringements to neighbors. We do want residents to enjoy their Grand Beach homes and enjoy the amenities of Grand Beach living. The applicants have worked very hard to accommodate our concerns and the changes they have made are in keeping with safety.

Slater asked what circumstances have changed since the original request. Lindley stated that a former councilman said when the variance was given to build the home that there would not be a variance given for a swimming pool on Perkins Avenue and that request has been removed for a variance on Perkins and they are now asking for a variance on Calla

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Avenue only. Lindley said that they moved the pool away from the doors of the home and reduced the size of the pool. They also have a lot that is surrounded by three streets which is very unusual.

Leonard added that this is a totally different request from the request the ZBA received in November which was for two variances, and this is the only area on the lot that they can put in a pool or a hot tub.

O'Halloran stated that the Village does a mailing to all property owners located within 300' of the applicant and nothing has been received in writing opposing the variance. He said concerns of neighbors are taken into consideration. He said that the ZBA is aware of all of the facts and they understand the lot and have been through everything twice between the two different meetings. When he reviewed this, he was able to see all of the effort that has gone into it, and after the ZBA evaluated it and sees that it will not set precedence, he would like to see the variance granted.

Bracewell agreed that he would like to see the variance granted, and said that he understands the posture and procedure of the Village attorney, adding that she has given a format to the ZBA and they have followed it and the whole reason behind it is that the decision would hold up if it were challenged. He said it is good that the neighbors have not complained because we have had experiences in the past where no one complained, the owner did the work, sold the house and the neighbors were not happy.

Bracewell moved, seconded by Lindley to grant the variance as presented and allow the applicants to start the process of constructing a pool as presented to the Zoning Board of Appeals at this ZBA Meeting/Hearing and to adopt the Findings of Fact as presented by the Village Attorney, and followed and responded to.

Roll Call Vote

Deborah Lindley	Aye
Blake O'Halloran	Aye
Steve Slater	Aye
James Bracewell	Aye
Paul Leonard	Aye

Motion carried unanimously 5-0.

Lindley moved, seconded by Bracewell to adjourn the meeting.

Roll Call Vote

Blake O'Halloran	Aye
Steve Slater	Aye
James Bracewell	Aye
Paul Leonard	Aye
Deborah Lindley	Aye

Motion carried unanimously 5-0.

With no further business, the meeting was adjourned at 7:26 p.m. EST.

Respectfully submitted,

Mary J. Robertson  
Clerk-Treasurer