

**ELECTRONIC (VIRTUAL) ZONING BOARD OF APPEALS SPECIAL MEETING/PUBLIC HEARING
NOTICE**

**VILLAGE OF GRAND BEACH
48200 PERKINS BLVD., GRAND BEACH, MI**

**WEDNESDAY, JUNE 17, 2020
6:00 P.M. (CST) – 7:00 P.M. (EST)**

THE VILLAGE OF GRAND BEACH COUNCIL, in compliance with the Open Meetings Act, Public Act 267 of 1976, as amended, (MCL 15.264), and State of Michigan Governor Gretchen Whitmer's Executive Order 2020-75 hereby gives notice of a Zoning Board of Appeals Hearing/Special Meeting to be held electronically. Executive order 2020-75 temporarily suspends rules and procedures related to physical presence at meetings and hearings of public bodies and other governmental entities in Michigan to help in the spread of Covid-19.

The Village Hall will not be open during the meeting, so you will need to attend the meeting electronically. The meeting may be audio only, no video.

**INSTRUCTIONS ON HOW TO JOIN
THE ELECTRONIC (VIRTUAL) MEETING/HEARING**

Please join the meeting/hearing from your computer, tablet or smartphone with the following link or telephone number:

<https://global.gotomeeting.com/join/271741061>

You can also dial in using your phone.
(For supported devices, tap a one-touch number below to join instantly.)

United States: +1 (646) 749-3112
- One-touch: <tel:+16467493112,,271741061#>

Access Code: 271-741-061

This notice is posted in compliance with the Open Meetings Act, Public Act 267 of 1976, as amended, (MCL 41.72a(2)(3)) and the Americans With Disabilities Act. The Village of Grand Beach Council will provide necessary reasonable auxiliary aids and services to individuals with disabilities at the meeting upon five days' notice to the Village of Grand Beach Council. Individuals with disabilities requiring auxiliary aids or services should contact the Village of Grand Beach Council by email at clerk@grandbeach.org or calling 269-469-3141.

**MARY J. ROBERTSON
CLERK – TREASURER
(269) 469-3141**

NOTICE

**VILLAGE OF GRAND BEACH
ZONING BOARD OF APPEALS
SPECIAL MEETING/PUBLIC HEARING
WEDNESDAY, JUNE 17, 2020**

6:00 p.m. (CST) - 7:00 p.m. (EST)

**GRAND BEACH VILLAGE HALL
48200 PERKINS BLVD.**

MARY J. ROBERTSON

CLERK – TREASURER

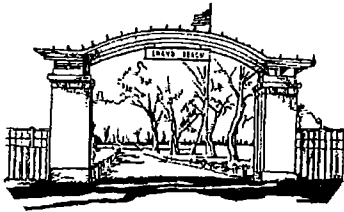
(269) 469-3141

A request will be heard from Lewis and Anne Kostiner for a variance of the zoning ordinance to allow for the construction of a swimming pool.

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

The petitioner is requesting a variance of six feet nine inches (6' 9") from the front yard setback requirement for the swimming pool on Calla Avenue, and if granted, the pool will be located twenty three (23) feet three (3) inches from the front lot line on Calla Avenue.

The property is located at 50236 Marjeanette Avenue, and described as lot 215 amended plat of lot 193 and a vacated portion of Calla Avenue of New Park Addition to Grand Beach Springs, Grand Beach, MI and being property tax code 11-39-5252-0215-00-0.



Village of Grand Beach
48200 Perkins Blvd.
Grand Beach, MI 49117

**SPECIAL MEETING/PUBLIC HEARING
ZONING BOARD OF APPEALS
JUNE 17, 2020
6:00 P.M. CST – 7:00 P.M. EST**

1. Call To Order

2. Adoption of Agenda

3. Public Hearing
 - a. Variance request from Lewis & Anne Kostiner
50236 Marjeanette Avenue, Property ID #11-39-5252-0215-00-0

4. Unfinished Business

5. New Business
 - a. Variance request to install swimming pool at 50236 Marjeanette Avenue, property ID #11-39-5252-0215-00-0. Petitioners have requested a variance from Article V, Section 5.06 E.1 front yard setback requirement of the zoning ordinance.

6. Audience Recognition

7. Correspondence

8. Adjournment

FINDINGS OF THE VILLAGE OF GRAND BEACH
ZONING BOARD OF APPEALS
REGARDING THE
KOSTINER VARIANCE
Marjeanette Avenue

The Zoning Board of Appeals finds as follows with respect to the Variance submitted by Lewis & Anne Kostiner:

**BACKGROUND AND PHYSICAL CHARACTERISTICS OF LOT
ON WHICH VARIANCE IS REQUESTED:**

- I. The parcel of property located at the intersection of Calla Avenue, Perkins Blvd., and Marjeanette Ave. The parcel is .31 of an acre. A review of a survey of the lot shows that:
 - a. The subject lot is small and oddly shaped.
 - b. The lot is challenging because of its natural slope and grade, and in fact it has a 33% slope based on a topographical survey.
 - c. The area with a 33% slope is considered a "critical dune area" and it is not buildable.
 - d. The lot borders not one, but three separate Village streets--Calla Avenue, Perkins Boulevard and Marjeanette Avenue.
- II. The Applicants previously received a variance to build a home on the Lot, and they are now requesting a variance to build a pool, which is an accessory use under the Village Zoning Ordinance.
- III. The Applicants are asking for one variance, which is described as follows:
 - a. 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 asking for a variance of six (6) feet nine (9) inches from the minimum front yard setback on Calla Avenue.

**STANDARDS TO BE MET BY SECTION 16.07 of the ZONING ORDINANCE PRIOR
TO THE GRANTING OF A VARIANCE**

- I. The Zoning Ordinance requires:
 - a. A written application & fees paid
 - b. That special conditions and circumstances exist which are peculiar to the land in the Zoning District so as to present such a unique situation that a precedent will not be established for other properties in the District to ask for the same or a similar change through the Zoning Appeal process.
 - c. That a literal interpretation of the Ordinance provisions would deprive the Applicant of the rights commonly enjoyed by other property owners in the District.
 - d. That granting of a variance will not confer any special privilege that is denied to

- by other lands or structures in the Zoning District.
- e. That other non-conforming uses of land or structures in the area should not be considered grounds for the variance.
- f. The Applicant must show "practical difficulty".

THE ZBA NEEDS TO DISCUSS EACH REQUIREMENT AND MAKE FINDINGS OF FACT ON EACH REQUIREMENT:

I. The Applicants have submitted a complete written application & paid all necessary fees.

II. Do special conditions and circumstances exist which are peculiar to the land in the Zoning District so as to present such a unique situation that a precedent will not be established for other properties in the District to ask for the same or a similar change through the Zoning Appeal process?

-The land's natural topography is primarily a protected dune as designated by the DEQ, and Applicants were able to construct a home on the land subject to a prior variance, which was not insignificant.

-Most of the lot has a 33% slope and is unbuildable per DEQ regulations

-The Applicants were aware of the potential of not being able to construct a pool when the original variance was granted for the home

-Is it reasonable for the Applicants to expect another variance?

III. Would a literal interpretation of the Ordinance provisions deprive the Applicant of the rights commonly enjoyed by other property owners in the District?

-If the Ordinance is interpreted literally, it would prevent the Applicant from building the pool provided in the attached plans.

-However, would the denial entirely prevent the Applicants from building a pool on the lot, OR would it simply force the Applicants to build a slightly smaller pool? within the setbacks (no variance needed)

IV. Will granting a variance confer any special privilege that is denied to other lands or structures in the Zoning District?

-Granting a variance will allow Applicants to build a pool on their lot, which is a privilege enjoyed by some other land owners in the Zoning District

-Have any other lots in the Village ever required or been given such drastic variances from the setback requirements for an accessory use such as a pool, particularly after being given a variance to build a home?

There were three (3) variances given to one property in July 2005 in the old section of the Village for a swimming pool. The variances were given for:

1. Front yard setback, a pool must be located not less than fifty (50) feet from the front property line. Variance was given to reduce setback to thirty-six (36) feet,
2. Distance from building. There is a requirement that a pool not be located less than ten (10) feet from any building on the property. There were variances given to allow a distance between the pool and the garage of eight (8) feet and the distance between the pool and the home to be seven (7) feet,
3. Distance from an adjoining property. There is a requirement of twenty (20) feet between the pool wall and an adjoining property. A variance was given to allow a distance of nine (9) feet from the pool wall and adjoining property.

Are there other options for Applicants that do not require a variance—or which require LESS of a variance?

The applicant initially requested variances from setback requirements on Perkins and Calla on November 20, 2019, and have since reduced the size of the pool which will now require less of a variance and only one variance on the Calla side of the home.

VI. The Zoning Board of Appeals may grant non-use variances based on a showing of practical difficulty:

A. Applicant has established that there is a very narrow setback area on the lot due to the lot's topography and designation as a critical dune area.

B. Would a literal interpretation of the ordinance deprive Applicants of rights possessed by other land owners in the area, namely to build a pool as an accessory use for their home in a residential district?

Can Applicants build a smaller pool without the need for a variance?

Can the Applicants show that they need the pool to be the size requested, or could they build smaller? Consider/discuss other options.

C. The extent of the variances and the fact that the property was already granted variances to build a home is concerning. The issue of a pool came up at that original hearing, and it was discussed that Applicants would not be able to fit a pool on the property. (The ZBA may be able to make suggestions and ask questions of the Applicants about making the requested setbacks smaller—or maybe meet the Applicants somewhere in the middle--**IF** the ZBA finds that a variance is warranted by meeting all of the other requirements).

D. The same thing can be said for the variance requested. Three sides of this lot border public roads. Setbacks are established for safety reasons as much as aesthetic reasons; allowing the pool to be too close to the lot lines in this case allows the pool to be fairly close to actual public roads. Are there any safety concerns, even with a fence in place? Discuss why or why not.

The pool will be located 34' from Calla Avenue (per drawing) if the variance is granted.

XI. After mailing notice of this hearing to all land owners within 300 feet of the Applicant, the Village **has not received** letters opposing the variance.

(Has there been any written or other opinions on the variance?? EXPLAIN ANY PUBLIC SUPPORT OR OPPOSITION TO THE VARIANCE)

There was opposition to the two requested variances at the November 20, 2019 public hearing by a homeowner at 50230 Marjeanette Avenue (Georjean Nickell) regarding the integrity of the dune if there were more development on it, the possible runoff down Calla to her property and the possibility of water in her basement if there is more runoff on the street caused by the pool.

RECOMMENDATION:

It is recommended that the Variance be **GRANTED/DENIED**. (Give VERY detailed reasons; this is essentially a recap and restatement of the discussion above....plus add in any reasons given by Council members at the meeting).

AYES: Board Members _____

NAYS: Board Members _____

ABSTAIN: Board Members _____

FINDINGS DECLARED ADOPTED.

IN WITNESS WHEREOF, We have hereunto affixed our names as Village Zoning Board Chairperson and Village Clerk of said Village this 17th day of June 2020.

VILLAGE OF GRAND BEACH

By: _____
Deborah Lindley

Its: Zoning Board Chairperson

ATTEST:

Mary Robertson

Its: Village Clerk

190405



WIGHTMAN

it's all about people

KOSTINER

PROPOSED POOL AND SEPTIC SYSTEM

PROPOSED LAYOUT

3/13/20

