

Mr. Heath stated he wants to install the pool on the flattest portion of the property and will need a retaining wall of 3 feet at the back edge because of the slope of the property. Mr. Heath stated he would like to connect the existing patio to the pool, so the elevations work best.

Member KP Kelly discussed with Mr. Heath whether the pool could be placed elsewhere and the elevation issues with the property.

Member Linhart asked if the pool could be placed closer to the house. Mr. Heath stated they would like a space for a picnic area and there is much shade in this area.

Mr. Heath stated he did speak with his neighbors about the project with no objections.

Member Catalino made a motion, seconded by Member Linhart, to close the public hearing at 6:40 PM and it was carried unanimously.

Board Questions

Chairperson T. Kelly proceeded with the board through the five (5) criteria questions:

- 1) Whether the benefit sought by the Applicant can be achieved by some other feasible method? The board answered No, because of the way the land drops off.
- 2) Whether the Variance will result in an undesirable change in the character of the neighborhood or to nearby properties? The board answered No.
- 3) Whether the requested Variance is substantial? The board answered No, plenty of room around the house.
- 4) As to whether the Variance will have an adverse effect on physical or environmental conditions? The board answered No.
- 5) Whether the alleged difficulty was self-created? The board answered yes because they want a pool.

Determination of ZBA Based on the Above Factors:

The ZBA, after taking into consideration the above five factors, finds that:

 X The benefit to the applicant **DOES** outweigh the Detriment to the Neighborhood or Community.

 The benefit to the applicant **DOES NOT** outweigh the Detriment to the Neighborhood or Community and therefore the variance requested is denied.

The ZBA further finds that a variance 5 Feet is the minimum variance that should be granted in order to preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

The ZBA further **GRANTS** the variance as requested with the following conditions: None.

SEQRA Review

Chairperson T. Kelly determined the proposed project and action contemplated is comprised of a Type II Action pursuant to the New York State Environmental Quality Review Act, and as such no further review was required.

Board Action

Member Catalino made a motion, seconded by Member KP Kelly to grant an area variance to Derek & Risa Farber-Heath, 5126 Reis Circle, Fayetteville NY (tax Map # 093.-04-18.1), this variance is being granted for the purpose of permitting the installation of a 16' X 32' inground pool, with an existing side yard setback of 15 feet they will need a variance of 5 feet to meet the required 20 feet side yard setback.

Ayes: Chairperson T. Kelly, Member KP Kelly, Member Linhart, Member Catalino, Member Miller.

Nays: 0

All in Favor.

Motion Carries.

Zachary & Evelyn Kadah, 17 Wheeler Ave., Fayetteville NY (tax map # 094.-03-09.0) for one front yard setback (Meadow Dr.) requesting a variance to construct a 16' X 34' inground pool. With an existing front yard setback of 28' they will need a variance of 12' to meet the 40' required front yard setback.

Member Linhart made a motion, seconded by Member Miller, to open the public hearing at 6:40 PM and it was carried unanimously.

Alex Fischer, Attorney for the applicant stated there is no other place to put the pool because the other side of the house would require a retaining wall and may impact the neighbor. Mr. Fischer stated they will be adding privacy trees along Meadow Dr.

Chairman T. Kelly asked how far away will the pool be from the leach field? Mr. Fischer stated approximately 30 feet.

Member Linhart made a motion, seconded by Member Catalino to close the public hearing at 6:52 PM and it was carried unanimously.

Board Questions

Chairperson T. Kelly proceeded with the board through the five (5) criteria questions:

- 1) Whether the benefit sought by the Applicant can be achieved by some other feasible method? The board answered no, as they have considered all the variables.
- 2) Whether the Variance will result in an undesirable change in the character of the neighborhood or to nearby properties? The board answered no, as there are other pools in the neighborhood.
- 3) Whether the requested Variance is substantial? The board answered yes, because of where the pool will be placed.

- 4) As to whether the Variance will have an adverse effect on physical or environmental conditions? The board answered no.
- 5) Whether the alleged difficulty was self-created? The board answered yes, they want a pool.

Determination of ZBA Based on the Above Factors:

The ZBA, after taking into consideration the above five factors, finds that:

 X The benefit to the applicant **DOES** outweigh the Detriment to the Neighborhood or Community.

 The benefit to the applicant **DOES NOT** outweigh the Detriment to the Neighborhood or Community and therefore the variance requested is denied.

The ZBA further finds that a variance 12 Feet is the minimum variance that should be granted in order to preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

The ZBA further **GRANTS** the variance as requested with the following conditions: None.

SEQRA Review

Chairperson T. Kelly determined the proposed project and action contemplated is comprised of a Type II Action pursuant to the New York State Environmental Quality Review Act, and as such no further review was required.

Board Action

Member Catalino made a motion, seconded by Member Linhart to grant an area variance to Zachary & Evelyn Kadah, 17 Wheeler Ave., Fayetteville NY (tax map # 094.-03-09.0). to construct a 16' X 34' inground pool. With an existing front yard setback of 28' they will need a variance of 12' off Meadow Dr. to meet the 40' required front yard setback.

Ayes: Chairperson T. Kelly, Member KP Kelly, Member Linhart, Member Catalino, Member Miller.

Nays: 0

All in Favor.

Motion Carries.

CHA on behalf of Twin Ponds Housing LLC, PO Box 515, Syracuse, NY have requested the Zoning Board provide an interpretation of the term "Usable District Space" pursuant to the Town Code 155-49 Powers of Board of Appeals.

This application has been adjourned to the April 20th Zoning Board Meeting.

Adjournment

With there being no other business, Member Linhart made a motion, seconded by Member Miller, and carried unanimously, to end the meeting at 7:00 PM

Respectfully submitted,
Debi Witzel, Secretary
Zoning Board of Appeals