

BEFORE THE CITY OF GREENSBURG ZONING HEARING BOARD

In the matter of:
Joseph & Julie Demangone

Variance:
Section 265-128

Property Location:
442 Zappone Way

Hearing Date:
June 17th, 2015

PROCEDURAL BACKGROUND

The application dated May 18th, 2015 by Joseph & Julie Demangone of 115 Tremont Ave Greensburg requesting a variance to the City Code, Section 265-128 related to the front yard area of their property. Their lot is an irregular lot. The property owners did not create the hardship. They wish to install a swimming pool in the “front yard” because it is the only viable location to locate it on the lot. Subject property is zoned R-2 General Residence District.

Members of the board present: Charlotte Kuhns Chairwoman
Jon Hillwig
Gene James

Absent: Patsy Iapalucci
Mark Dent

Also Present: Pete Cherellia, Acting Solicitor
Barbara J. Ciampini, Planning Director.

Charlotte Kuhns introduced the Board Members present and advised all persons present who planned to participate in the scheduled hearing to stand and be sworn in.

There were no objections to advertising or procedure at the onset of the hearing. Gene James made a motion to approve the variance. Jon Hillwig seconded the motion. All were in favor.

DISCUSSION

The application dated May 18th, 2015 by Joseph & Julie Demagone of 115 Tremont Ave Greensburg requesting a variance to the City Code, Section 265-128 related to the front yard/area of their property. Their lot is an irregular lot. The property owners did not create the hardship. They wish to install a swimming pool in the “front yard” because it is the only viable location to locate it on the lot. Subject property is zoned R-2 General Residence District.

Barbara Ciampini: Just for the record all of the required advertisements and postings were done in accordance with the City Code.

Charlotte Kuhns: Mr. Demagone would you like to speak

Joseph Demagone: My name is Joseph Demagone I am here to apply for a variance to have a swimming pool installed on my property. First of all I don't know where anyone had the opportunity to go out and look at the property. If you haven't I have some pictures here if you would like to see them.

Barbara Ciampini: You can submit them

Joseph Demagone: It starts off standing back from Steck Street look back at the property. The swimming pool will be going back behind the lattice.

Barbara Ciampini: Joe, can we have these for the record?

Joseph Demagone: Sure

Barbara Ciampini: I will mark them

Joseph Demagone: First of all my wife and I live at 115 Tremont Ave down by the VFW. Last summer we purchased this property at 422 Zappone Way. With the hopes of having a carriage house for company guests friends and for me to have a work shop and a garage and to put a swimming pool in the yard for our son. When I purchased the property it was completely over grown. In fact from the street you could not see the garage. You could not see the fence that the neighbor owns on the left hand side as you are facing the property. Last November I started just going crazy in the yard trying to prepare it for the swimming pool in the spring. I am to the point as you can see in the picture I applied for my permit and I found out I wasn't allowed to put a swimming pool in my front yard. So that is why I am here today to get a variance to try to put the swimming pool where it's really the only spot on the property that you could put a swimming pool. My property address is 442 Zappone Way. There is no back yard. Both of my buildings as you can see on my survey the butt up against the alley. I have about 8ft parking behind the garage that is about it. But as you can see in

the pictures I have the place already landscaped and ready for the swimming pool I am just here to try and get the variance for the swimming pool for my son as soon as possible. Any questions

Barbara Ciampini: I marked the four photos A thru D for the record.

Charlotte Kuhns: We will accept them into the records.

Barbara Ciampini: I know I have instructed the board as always that under Section 910.2 of the Pennsylvania Municipal Planning Code Act of 1968 , PL.805, No.247 it is also regurgitated in the City zoning ordinance that there are 5 criteria we have to look at in order to grant you a variance. For the record I will gloss over these real quick. Zoning Hearing Board's Functions: Variances--- a) The board shall hear requests for variances where it is alleged that the provisions of the zoning ordinance inflict unnecessary hardship upon the applicant. The board may by rule prescribe the form of application and may require preliminary application and may require preliminary application to the zoning officer. The board may grant a variance provided that all of the following findings are made where relevant in a given case:

- 1) That there are unique physical circumstances or conditions including irregularity, narrowness, or shallowness of lot size or shape, or shape or exceptional topographical or other physical conditions peculiar to the particular property and that the unnecessary hardship is due to such conditions and not the circumstances or conditions generally created by the provisions of the zoning ordinance in the neighborhood or district in which the property is located. I believe we can check that off.
- 2) That because of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of the zoning ordinance and that the authorization of a variance is therefore necessary to enable the reasonable use of the property. Check
- 3) That such unnecessary hardship has not been created by the appellant. Check
- 4) That the variance if authorized, will not alter the essential character of the neighborhood or district in which the property is located, nor substantially or permanently impair the appropriate use or development of adjacent property, nor be detrimental to the public welfare. Check
- 5) That the variance, if authorized will represent the minimum variance that will afford relief and will represent the least modification possible of the regulation in issue. Check

Joseph Demagone: One more thing it is an above ground pool. it's going to be a 21 foot round pool 54 inches high and the lattice that you saw in the picture I don't believe the top of the pool will be visible from the lattice. It will be lower than the lattice and the front of the pool will be 52' from the curb if you are standing on the street.

Barbara Ciampini: Yes he meets the side yard requirement. It's on the survey that it's 10 feet.

Joseph Demagone: Actually it is 12-13 feet. I had this drawing done last November in hopes that we would have a pool by now. But it didn't work out as you can see it says a proposed 24 feet pool in is actually going to be 21 feet and we are about 12-13 feet off the property.

Pete Cherellia: So you meet the side yard requirements.

Barbara Ciampini: Yes for a 50 foot lot he only has to be 8 feet 4 inches so he meets it. And in fact after reviewing this he is actually building the pool in a buildable area of the lot and not necessarily front yard just to make that correction.

Joseph Demagone: Technically my one neighbor on the one side it would be in his backyard but my other neighbor would have let say 6 feet of their house the yellow brick one that you see in the pictures about 6 feet of his house would be here is the front of the pool about 6 feet of his house if you draw a straight line across the property.

Barbara Ciampini: And Joe your neighbors were invited to attend

Joseph Demagone: I spoke to all of them and Mr. Frye actually lives on the street and is here I believe that he is on my side not against.

Barbara Ciampini: You want to ask if he would like to speak for him or against.

Charlotte Kuhns: Would you like to speak for him? Or is Mr. Frye coming to the podium?

Richard Frye: My name is Richard Frye I live at 432 Steck St. which is caddy corner from the property that we are discussing now. I have lived there since 1972 and we have gone through some times that in area there I think when I moved in I was the youngest one on the street. Everyone else on the street were more of senior citizens and they passed on sold the homes and we have had two different drug houses in there at one time and then we had another problem home and everything and we got them out. I think the police knew me by my first name and my telephone number because I was on the phone constantly with another problem. The house that Joe just purchased you really come down Steck St walking or driving you wouldn't even know that there is a house back there the trees was grown up the shrubs were grown up . He has done a tremendous job on it. I think he really has done a good. Property value for everyone else in the area I feel everything he has done to the property has beautified the neighborhood. He made the neighborhood much better than what it was. So I have no problem with it. I am in favor of him putting the pool in. Alright thanks.

Charlotte Kuhns: Does anyone have any questions for Mr. Demagone?

Barbara Ciampini: No I don't have any questions. If you would like to make a motion

Charlotte Kuhns: Alright I would like to entertain a motion

Gene James: I will I think we are in compliance with the 5 rules Barb recited and I think we should grant the appeal. I move we grant the appeal.

Jon Hillwig: I second it

Charlotte Kuhns: Can I have roll call please.

Barbara Ciampini:

VOTE:

Jon Hillwig	Yes
Gene James	Yes
Charlotte Kuhns	Yes.
All were in favor	

Charlotte Kuhns: The motion passes. Your request has been approved.

Within thirty (30) days of the date of the decision by this board, this decision may be appealed to the Court of Common Pleas of Westmoreland County. It is important that you understand that the person (s) requesting action may take an appeal if the decision of this board is against him, but those opposed to his or her request may also take an appeal within the thirty (30) day period.

“If an action of this board results in an approval of the request or an individual no work may proceed on the property until the thirty (30) day appeal period has expired.”

Anyone that may want a copy of the decision please leave your name and address with the secretary.

Barbara Ciampini: I will say Joe that we will issue you the permit with some kind of waiver that you need to sign that someone does appeal that is not here that you take on full liability for taking it down. Ok

Pete Cherellia: Just so you know that within that thirty (30) day period they could appeal.

Barbara Ciampini: We will issue the permit tomorrow. Kelly has it ready

Charlotte Kuhns: Can I have a motion to adjourn.

Gene James: I make a motion to adjourn.

Meeting adjourned at 4:30

