

**XENIA TOWNSHIP BOARD OF ZONING APPEALS**  
**PUBLIC HEARING**

September 14, 2022

**THESE MINUTES ARE A SUMMARY OF THE EVENTS OF THE PUBLIC HEARING AND ARE NOT A WORD FOR WORD ACCOUNT OF THE DISCUSSIONS WHICH TOOK PLACE.**

Nathan Anthony, Acting Chairman, called the meeting to order at 6:29 p.m. and welcomed the people in attendance. He asked for roll call for attendance of the members.

Board of Zoning Appeals members present: Nathan Anthony Interim Chair, Darren Jones, Janis James and Brian Secor. Also present was Alan Stock, Xenia Township Zoning Inspector, and Ashley Caldwell Greene County Prosecutor's Office, legal counsel for the Township.

Mr. Anthony went over the rules of the meeting; all cell phones must be turned off, everyone must sign in. The application will be read by Alan Stock, Zoning Inspector/Clerk, because the Board of Zoning Appeals decisions are quasi-judicial, all testimony has to be sworn. Everyone must come to the podium; state their name and state they are under oath. Only facts are to be given, not opinions or emotions. Minutes are being taken electronically. Questions are to be directed to the Board only. The Board of Zoning Appeals will follow Roberts Rules of Order for procedures. The Chair reserves the right to limit public input. The Board of Zoning Appeals may approve in whole or in part, reject in whole or in part, or reschedule to another date. An applicant may also withdraw their request. The decision will become effective five days after date of decision. A decision by this Board is a final order under R.C. 2506.04. Aggrieved individuals may appeal the decision to Common Pleas Court. The audience joined the Board in the Pledge of Allegiance. Mr. Anthony administered the oath to the audience

Mr. Anthony asked Mr. Stock if the application was lawful to be heard by the Board. Mr. Stock indicated yes, they had, and advised that the notice had been published in the newspaper and notices had been mailed to all property owners within 500' of the property. Mr. Stock stated that a sign was placed on the applicants' property. Mr. Stock explained all the exhibits for this Public Hearing. Mr. Anthony asked the Board members if they had read and considered the application—all answered yes; and he asked if they felt they should not be part of the proceeding due to some conflict of interest all answered no; and if they intend to participate in the entire procedure including voting on the questions asked—all answered yes.

Mr. Anthony asked Mr. Stock to present the proposal. Mr. Stock reviewed all the documents and Exhibits A-E.

Exhibit A: Application for Board of Zoning Appeals

Exhibit B: Proof of Public notices (Letter to Neighbors, Newspaper Notice, Sign in Yard, Website, Procedure Check List)

Exhibit C: Staff Findings

Exhibit D: Agenda

Exhibit E: Public Comment

**THOMAS AND DEBORAH SWIGART, 287 WINDING TRAIL – AREA VARIANCE SECTION 524  
PRIVATE POOLS – PARCEL # M36000200263008600**

**Deborah Swigart, 295 Winding Trail, Applicant, Under Oath**, stated that they have lived in the home for 44 years, and decided that they wanted a pool. She went on to say that when applying for the permit, and found out that since the parcels are not adjoined, they could not place the pool where it is desired without a variance. She further stated that she did not want to adjoin the lots nor move the pool. She went on to say that they did have an above ground pool on another lot, but it was too far away from the house, and with it closer to the house, they would be able to keep a closer eye on the pool for safety.

**Mr. Anthony, BZA**, asked the applicant to explain why they did not want to adjoin the lots.

**Deborah Swigart, 295 Winding Trail, Applicant, Under Oath**, stated that they did not want to adjoin the lots because it would cost \$3,500.00 and that the empty lots still have utilities from the former home that burnt down. She went on to say that they just did not want to adjoin the lots.

**Mr. Jones, BZA**, asked if the above ground pool was where the house that burnt was located.

**Deborah Swigart, 295 Winding Trail, Applicant, Under Oath**, stated that the former house was across two (2) lots.

**Mr. Jones, BZA**, stated that it does not make sense that a home was built across two (2) lots.

**Mr. Secor, BZA**, stated that the homes was built in the 1950's.

**Deborah Swigart, 295 Winding Trail, Applicant, Under Oath**, stated that her home is also across two (2) lots.

**Mr. Jones, BZA**, stated that they also have a lot next to the home that they cannot do anything with.

**Deborah Swigart, 295 Winding Trail, Applicant, Under Oath**, stated they share that lot with the neighbor.

**Mr. Anthony, BZA**, asked for any comments in opposition of the request.

There was no one in opposition.

**Mr. Anthony, BZA**, asked for comments in favor of the request.

There was no one in favor.

**Mr. Anthony, BZA**, closed the hearing for public comments.

**Mr. Anthony, BZA**, asked for questions from the Board.

**Mr. Anthony, BZA**, asked Mr. Stock if the pool was placed on the open lot within the required setbacks, if a variance would be needed.

**Alan Stock, Zoning Inspector**, stated that it would not need a variance if placed within the required setbacks. He went on to state that it would be considered a Non-Residential Primary Structure. Mr. Stock went on to state that zoning tries to protect future owners while allowing current owners to enjoy their property. He went on to state that if the pool was placed within setbacks, it would ensure that another home could be built there.

**Mr. Secor, BZA**, asked how far over the property line the pool would be.

**Austin Thomas, Heatwave Pools, 7894 Paragon Road, Centerville, Ohio, Under Oath**, stated that the pool itself is 3-4 feet away from the property line, but that the surrounding concrete apron that will be over the property line.

**Alan Stock, Zoning Inspector**, stated that Zoning does not regulate by waters edge, but the entire pool which includes the walk around.

**Mr. Anthony, BZA**, asked why the pool can not be moved so it is not crossing the property line.

**Austin Thomas, Heatwave Pools, 7894 Paragon Road, Centerville, Ohio, Under Oath**, stated that there is a hill and would cause extensive work in any other area of the lot.

**Mr. Jones, BZA**, stated that if they ever decided to sell, that they would have to sell the other lots also because of the pool.

**Mr. Anthony, BZA**, stated that whenever the home is sold, the bank would require that all three (3) lots be sold together. He further stated that the properties would not be able to be split and that they will essentially become one (1) lot.

**Mr. Secor, BZA**, stated that if the properties were to be adjoined, the property taxes would increase.

**Deborah Swigart, 295 Winding Trail, Applicant, Under Oath**, stated that they want the pool closer to the house and not pushed out into the open lot. She further stated that they already have a deck off the house and that there is a steep hill. She went on to say that her contractor stated that the hill would cause drainage issues.

**Mr. Secor, BZA**, asked where the hill is.

**Deborah Swigart, 295 Winding Trail, Applicant, Under Oath**, stated that is hard to see on the map.

**Mr. Jones, BZA**, stated that the lots are like stair steps.

**Mr. Secor, BZA**, stated that it is not uncommon in the area to have two (2) lots and to see buildings crossing the lot lines. He went on to state that as for the bank not giving a loan, that would be the problem of the owner, not the board.

**Mr. Anthony, BZA**, stated that Mr. Secor was technically correct. He went on to state that the owners could choose to sell the lot with the pool before they sold their house though.

**Mr. Jones, BZA**, stated that he would not purchase the lot with the pool because that would mean that the pool would be on the neighboring property.

**Mr. Secor, BZA**, stated that if any of the lots were to sell, it would be the one on the end because the pool would divide the lots.

**Mr. Anthony, BZA**, stated that is why setbacks exist.

**Mr. Secor, BZA**, stated that the history of the area needs to be looked at.

**Alan Stock, Zoning Inspector**, stated that zoning was established in 1959, and that this home was built before zoning. He went on to state that zoning does not require home owners to back to fix violations, but it does require home owners to be compliant with current standards.

**Mr. Secor, BZA**, stated that he has a problem with that. He stated that historic properties should be allowed to be what they are based on history.

**Alan Stock, Zoning Inspector**, stated that the home owners are doing the correct thing by asking for a variance for improvements outside of the zoning resolution. He further stated that home owner would never be asked to go back and fix things that are not complaint with current zoning, but they would be required to be compliant if wanting to improvements to their properties.

**Mr. Secor, BZA**, stated that looking at the property, you have to take into consideration the history of the property. He further stated that there are other homes in the area that have homes and structures crossing the property lines.

**Ms. James, BZA**, stated that there are already zoning violations on the property.

**Mr. Anthony, BZA**, called for a motion.

Motion for approval for a variance for swimming pool setback was made by Mr. Secor and seconded by Mr. Jones.

Mr. Anthony called for a vote

Ms. James	AYE
Mr. Jones	AYE
Mr. Secor	AYE
Mr. Anthony	NAY

Request for variance to swimming pool setback was GRANTED with no conditions.

There being no further business, the Board adjourned.  
Meeting Adjourned 7:00 P.M.

ATTEST:

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Alan D. Stock, Zoning Inspector