

Bolton Zoning Board of Appeals
Regular Meeting Minutes
June 14, 2022 7:00 p.m.
Bolton Town Hall, 222 Bolton Center Road
Hybrid Meeting-In person and virtual via Zoom

Members Present: Chairman Mark Altermatt, William Pike (present via Zoom), and Morris Silverstein and Alternates William Anderson (seated for Jonathan Treat), Joshua Machnik and Mary Terhune (seated for Anne Decker)

Regular Meeting

1. **Call to Order:** Chairman M. Altermatt called the meeting to order at 7:11 p.m.
2. **Public Comment:** No public comment

Public Hearing

3. PUBLIC HEARING - Application #ZBA-22-2 Daniel Johnston of Ambassador Pool Distributors, Inc., on behalf of homeowner Tonya LaPlante – 11 Enrico Rd. – variance request to install above-ground pool with integrated deck and fence

Present via Zoom were the homeowner, Daniel LaPlante and Daniel Johnston, representing Ambassador Pools.

Ambassador Pools installs kayak pools and the pool in question is the smallest size available. The only viable location for the pool on this property is where it was installed.

M. Altermatt noted that in order for the variance to be granted, Mr. Johnston needs to provide the board with hardship reasons.

Mr. Johnston noted that the property is an odd shape and the topography of the lot slopes down significantly.

Mr. LaPlante noted that the Eastern Highlands Health District was concerned about the distance of the pool from the septic tank and leaching field. He is concerned that if he is granted the variance, there still may be a problem with the Eastern Highlands Health District. The pool must be ten feet away from the septic tank and the leach field.

M. Altermatt noted that the septic field seems to be drawn in pencil on the official plans. The land survey was done in 2001 and the septic field was drawn in later. There is no official stamp on the plans. He questioned the credentials of the person who drew in this information and asked if it was done by a surveyor. At this time, Mr. Johnston could not provide the name or qualifications of the person who drew in the septic tank and field although he offered to provide that information at a later date.

W. Pike asked if the site plan was included when the permit was pulled. Mr. Johnston stated that his employee who pulled the permit made some errors. Mr. Pike asked how this situation happened in the first place. The proximity to the septic tank is a concern. He feels that it would be wrong to grant a variance if it puts the pool too close to the septic tank and leach field. That data is necessary to make a decision. The pool has been installed since August 2021.

M. Terhune asked if a building permit was pulled. M. Altermatt doesn't think that any permit was pulled prior to installing the pool. The pool company thought that a building permit had been granted.

W. Anderson asked if there is another map at the town hall that shows the "A" and "B" locations of the septic tank and leach field. Mr. LaPlante noted that the "B" location is in the front of the house, not near the pool.

M. Altermatt asked if the board members feel that more info is needed before making a decision. M. Terhune would like to hear what the Eastern Highland Health District says before she makes a decision. Mr. Johnston will look into how the septic area was drawn on the plot map.

W. Anderson stated that the location of the existing leach field was drawn on the map and gives a false sense of information. When a map is altered there is typically a revision date. This shouldn't be an issue as long as the numbers that are on the map agree with the numbers that the town has.

W. Pike responded to W. Anderson that although the numbers look realistic, somehow the Health District has become aware of this issue. Mr. Anderson said that the rear yard offset is the concern before this board.

W. Anderson feels that this is a Health Department issue. W. Pike said that the mistake was that the permit was not pulled correctly and the pool was installed. This should have never happened but we don't punish anyone for making a mistake.

W. Anderson questioned what would happen if the variance was granted tonight and the Health Department has an issue. The general consensus was that the Health Department will worry about that.

Mr. Johnston indicated that he would like the board to proceed with a vote tonight.

All of the adjacent neighbors were notified via certified mail and there were no objections.

The public hearing is closed and a two minute recess was granted.

M. Altermatt read the setback information aloud for W. Pike who was attending via Zoom.

M. Silverstein stated that the board should let the facts speak for themselves. The pool was installed without a permit. M. Altermatt stated that according to law, the board has to treat the decision on the variance as if the pool was never installed. M. Silverstein stated that is fine for

other board members but not for him. The pool was put on the site without a variance granted. The business is trying to save a sale and it is only a hardship on the part of the company. The company has not come to the board with clean hands and the variance should not be granted. The pool should be dismantled and moved offsite. The pool company should come in the front door and not the back door. The denial of the variance would be without prejudice so that it could be brought before the board again.

W. Anderson stated that case law says that a variance after the fact is no different than before the fact. He feels that the conditions of hardship have been met-the odd shaped lot, the topography and septic placement. W. Pike agrees with Mr. Anderson in approving the variance.

M. Terhune understands the point of the best location. The issue seems to be that the size of the pool infringes on the setback. Is there another pool company that would have a pool that would fit in this location? The board felt that the same issue would exist. The neighborhood was not impacted. Based on these facts, she would grant the variance.

M. Altermatt would grant the variance. There is no other practical place for the pool. If the application been presented a year ago he would have approved it.

W. Anderson made a motion to grant the twelve foot variance of the rear yard offset due to the location of the septic field, the topography and the geometric shape of the existing lot. W. Pike seconded. The motion carries 4:1:0.

Other Business

4. Approval of Minutes: March 8, 2022

M. Terhune made a motion to accept the minutes as presented. M. Silverstein seconded. The motion passed 4:0:1. W. Anderson abstained.

5. Correspondence: None

6. Other: None

7. Adjournment

M. Silverstein made a motion to adjourn at 8:14 p.m. W. Anderson seconded. The motion passed unanimously 5:0:0.

Respectfully submitted,

Leslie J. Brand

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Please see minutes of subsequent meetings for corrections to these minutes and any corrections hereto.