

**ZONING BOARD OF ADJUSTMENT
CONTINUED PUBLIC HEARING for –
Paul & Michelle Couture, Map 30, Lot 148
January 10, 2005**

**Approved 3/7/05
1st DRAFT**

The meeting was called to order at 6:00 p.m. by Chairperson Annie Robbins. Those attending were:

REGULAR		ALTERNATES		OTHERS	
Annie Robbins, Chair	X	Cecile Arnone	X	Paul Morrill	
Marsha Lavallee-Huntoon, Vice Chair	X	Marjorie Cutter		Dianne Bishop	X
Ann Gehring		George Frothingham	X		
Jeff Bolstridge	X	Barbara Marsh			
Maggie Kennedy	X	Robert Moholland	X		

Others attending included:

Paul Couture & Jay Henshall, Gibraltar Pools

ROLL CALL – DESIGNATION OF ALTERNATES –

Cecile Arnone was seated for Ann Gehring.

**CONTINUED PUBLIC HEARING – Case 2004-7
Paul & Michelle Couture – Map 30 Lot 148
Variance – 2.07.D.1.d – Side Setback**

The applicants own a non-conforming lot and are requesting a side-line setback in order to install an above-ground pool.

The Public Hearing opened at 6:07 p.m.

There being no “public” present to speak for or against the applicant(s), the Public Hearing was closed at 6:08 p.m.

Ms. Robbins asked that someone volunteer to complete the Worksheet for Variance Application. With no volunteers, Ms. Robbins asked if Mr. Moholland would please accept this duty – which he did.

Criteria 1: The proposed use would not diminish surrounding property values because: (applicant’s response) it is a temporary structure, requiring no removal of vegetation except for lawn, and minimum ground disturbance.

Discussion: Ms. Lavallee-Huntoon questioned the term “temporary” since this Variance will be recorded at the Registry of Deeds yet, if approved, we’d be granting a permanent variance for all time on it. Ms. Robbins indicated her thoughts it is not a permanent structure to block neighbor’s light. Ms. Lavallee-Huntoon also mentioned the possibility of the property being sold, the next buyer noting that since a variance has already been given, they, too, could erect a pool. Ms. Lavallee-Huntoon agreed that this requirement can be met as long as there are conditions applied.

MOTION: To accept that the requirements of Criteria 1 have been met.

Made by: Marsha Lavallee-Huntoon

Seconded by: Cecile Arnone

Discussion: Ms. Robbins reminded the board that discussion has been brought forward that the board considers as a condition that the structure remain as a pool; conditions will be discussed later in this meeting.

Vote: passed unanimously

Criteria 2: Granting the Variance would not be contrary to the public interest because: (applicant’s response) Removable structure for private use.

MOTION: To accept that the requirements of Criteria 2 have been met.
Made by: Jeff Bolstridge
Seconded by: Cecile Arnone
Vote: passed unanimously

Criteria 3: Denial of the Variance would result in unnecessary hardship to the owner because:

- a) **The zoning restriction as applied to the property interferes with the reasonable use of the property, considering the unique setting of the property in its environment such that:** (applicant's response) due to a large amount of ledge, the property affords no other possible sight on which to assemble pool.

MOTION: to accept that the requirements of Criteria 3.a) have been met.
Made by: Jeff Bolstridge
Seconded by: Cecile Arnone
Vote: passed unanimously

- b) **That no fair and substantial relationship exists between the general purposes of the zoning ordinance and the specific restriction on the property because:** (applicant's response – amended) the zoning in my lot is unfair with setbacks due in part to a 20 foot setback in a rural area - it is overly restrictive.

MOTION: to accept that the requirements of Criteria 3.b) have been met.
Made by: Maggie Kennedy
Seconded by: Jeff Bolstridge
Vote: passed unanimously

- c) **The Variance would not injure the public or private rights of others since:** (applicant's response) the above-ground pool would impact no individual except for one direct abutter who has expressed consent.

MOTION: to accept that the requirements of Criteria 3.c) have been met.
Made by: Maggie Kennedy
Seconded by: Cecile Arnone
Vote: passed unanimously

Criteria 4: Granting the Variance would do substantial justice because: (applicant's response) it would allow for family use and enjoyment of an otherwise limited enjoyment.

MOTION: to accept that the requirements of Criteria 4 have been met.
Made by: Jeff Bolstridge
Seconded by: Cecile Arnone
Vote: passed unanimously

Criteria 5: The use is not contrary to the spirit of the ordinance because: (applicant's response) it would allow for the pool, with no negative impact on the community.

MOTION: to accept that the requirements of Criteria 5 have been met.
Made by: Jeff Bolstridge
Seconded by: Cecile Arnone
Vote: passed unanimously

MOTION: to grant a Variance for an above-ground pool to Mr. & Mrs. Couture, Map 30, Lot 148 with conditions.
Made by: Marsha Lavalley-Huntoon
Seconded by: Maggie Kennedy
Vote: passed unanimously

There was some discussion about the terminology of the conditions. It was asked if there is a deck around the pool. Mr. Henshall indicated there is a small deck, 24 inches, around the pool, which is cantilevered, not directly touching the ground. The variance is for 10 feet, and there is some concern that the setback, including the deck, would then become 8 feet. Mr. Henshall indicated that setback will be 10 feet to the water wall, the cantilevered deck is not more than 2 feet and it does not touch the ground. This setback of 10 feet was acceptable to the Building Inspector. Ms. Kennedy asked why there is a walkway all around the pool; Mr. Henshall indicated that one reason for the ‘walkway’ around the pool is part of the support structure of the wall itself, cannot build a pool without it.

Conditions:

- a) This variance is granted with the condition that it remain an above-ground pool only in the approved location.
- b) The applicant will follow the guidelines as set forth by the Building Inspector for measurements to the water wall and cantilevered deck of not more than two (2) feet.
- c) The pool will remain as presented with no additions or modifications.

MOTION: to accept the conditions as presented above.
 Made by: Marsha Lavalley-Huntoon
 Seconded by: Maggie Kennedy
 Vote: passed unanimously

Mr. Couture was informed that, after 30 days, this Variance will be recorded and he needs to submit his check for \$12.37, payable to the Carroll County Registry of Deeds prior to that time. Mr. Couture and Mr. Henshall left, and shortly after Mr. Couture returned with this check for the recording of this variance.

APPROVAL OF MINUTES

MOTION: to accept the minutes of the December 6, 2004, meeting as presented.
 Made by: Maggie Kennedy
 Seconded by: Marsha Lavalley-Huntoon
 Vote: In favor – 4 Opposed – 0 Passed*

*Ms. Robbins abstained as she did not attend the December 6, 2004, meeting.

OLD BUSINESS

The Board discussed the attendance of the DES workshops in January and February. Some members will be attending the February 8th session; in the event of inclement weather, there is the possibility of the workshop being postponed until some time in March.

NEW BUSINESS

Ms. Bishop explained that she is in the process of cleaning out the ZBA files, removing cases from 1997 through 1999 (previous ones having already been moved to storage prior to Ms. Bishop’s becoming ZBA secretary). Since there is little or no storage space at the town hall due to renovations, Ms. Bishop is keeping these older files at her home until such time as there is storage space available at the town hall and/or renovations are complete – whichever comes first.

Ms. Bishop also advised the Board of the changes that have been voted on and made to the Rules of Procedure. She will now complete those changes, print the new copies of the Rules and will advise by e-mail when the new copies are available for pick up at the Town Hall.

There was also some discussion regarding payment of the \$12.37 recording fee. One recent applicant did not submit the payment in a timely manner; and when submitted it was written incorrectly – the Secretary is still attempting to obtain a check made out correctly. Consequently, there was a discussion as to if and/or how we can compel an applicant to submit the required payment for the recording. It was agreed by the Board that a section referring to this will be added to applications under the ‘fees’ section.

Ms. Robbins advised the Board that she has completed her portion of the Town’s Report.

Mr. Bolstridge submitted his letter of resignation, effective March 1, 2005, because he is moving. Consequently there will be an opening on the Board for a regular member, for which alternates as well as the general public may apply in writing; members were also asked to mention the opening(s) – regular and alternate - to friends, should a current alternate request and be appointed as a regular Board member.

It was noted that there has been no further communication from Mr. Sterndale about his request for a Variance to build a deck. Also, no additional information yet from Mr. Cappi, who has requested a Variance – side setback – with plans to remove and replace his existing residence. Neither of these applications is complete, thus no copies have yet been made.

MOTION: to adjourn the meeting at 7:10 p.m.
Made by: Marsha Lavalley-Huntoon
Seconded by: Maggie Kennedy
Vote: Passed unanimously

Respectfully submitted,

Dianne Bishop, ZBA Secretary