Newbury Township

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Board of Zoning Appeals Meeting Record of Proceedings

Date

September 15, 2026

7:00pm

Zoning Hearing regarding: CASE NO. BZA 2026-17

Zoning Certificate Application No.

Property Address: 14646 Dora Dr. Newbury Ohio 44065

Board of Zoning Appeals Members present:

Mike Fenstermaker- Vice chair

Albert Hehr

Dave Fabig

Jay Jones (alternate)

Board of Zoning Appeals Members absent:

Lewis Tomsic Jr.

Scott Koller

Staff / other officials

Nick Bellas- Zoning Inspector

Greg Tropf- Trustee Liaison

Amy Lydan- Zoning secretary

Applicant/Guests Present:

Scott Laing

David Leichtman

David M. King

Cynthia Teague

Tammy Teague

Mary Sayre

Christine Kozlowski

Dianne Nickel

Roll was taken and attendance is reflected as stated above

Vice Chairman Mike Fenstermaker called the meeting to order at 7:00 p.m and began the meeting with the pledge of allegiance

Mr. Fenstermaker

"Good evening. This is a meeting of the Newbury Township Board of Zoning Appeals. Before proceeding I will read a brief overview of tonight's hearing. The Board of Zoning Appeals is a quasi-judicial body, and as such, its role is similar to a Judge – in a court case. We hear evidence and make decisions based upon the facts presented, the rules set forth in the resolution and the principles of law. As a quasi-judicial body, we keep our procedures relatively informal. However, in order to conduct an orderly meeting and allow all interested parties an opportunity to present the evidence necessary to assist us in making our decision, certain procedures will be followed.

Please keep in mind that the applicant has the burden to produce evidence in support of the application, and the burden to persuade the Board that the evidence justifies the action being asked to take. The Board will not make the applicant's case for him.

This meeting will be recorded. In order to prepare appropriate meeting minutes, any person who speaks will slowly state for the record his/her name and address.

Both the Board and the applicant may request to continue a matter to a future date."

Mr. Fenstermaker asked that any audience member(s) present who want to speak - to raise their right hand. Mr. Fenstermaker swore in:

Scott Laing

David Leichtman

David M. King

Cynthia Teague

Tammy Teague

Mary Sayre

Christine Kozlowski

Dianne Nickel

Mr. Fenstermaker noted everyone had been sworn in.

Mr. Fenstermaker asked if all of the interested parties were notified and the Board Secretary and stated that yes, all interested parties were notified.

Notable minutes as to what transpired at the hearing.

Mr. Fenstermaker- we are here to hear an appeal filed by Scott Laing of Premier Pools on behalf of Angelina and Joshua Halliday regarding their property at 14646 Dora Dr Newbury Ohio 44065

Mr. Fenstermaker- The floor is yours

Mr. Laing- Hi, I'm Scott Lang, L - A - I - N - G. I live at 7142 Kinsman Road in Novelty, Ohio. I'm the owner of Premier Pools and Spas. We're an in - ground fiberglass pool builder. I'm here in in lieu of the the Hallidays. They happen to be on holiday. They just happen to be on vacation at this at this exact moment. I'm speaking for them. Our variance that we're seeking is to have the fiberglass swimming pool rather than 50 feet from the rear property line, as is the as is the written code. Currently, we have it at 26 feet 8 inches. It's a it's a large property, a two acre , a two acre affair. But when it comes to the usable space for a swimming pool, that's where things get a little get a little complicated. So obviously, they have a large front area there, you see the driveway. The well head is up there. Obviously, no one's putting a pool in in their front yard. When it comes to side yards, on the north side there is a fair distance down like that. See that white path that's coming down? That's like a ramp that comes out of their comes out of their home. That's a big ramp down. So all of that. So all of that all that area here is. Is incredibly low. This where a fire a fire pit is. When you're doing swimming pools, more level is more helpful. So then, on the on the flip side, on this side of the yard, this one of their septic tanks. This one of their septic tanks, and then their leach field or pushout is kind of on that side. So that really only leaves this area here. As things are right now, the swimming pool is like right here. I don't know if you're looking at drawings, but that's 33 feet out from the house, and then 16 feet wide as the swimming pool is, and then another 26 feet to the property line. That's only 73 feet total from where their from where their house is to where to where their property line is. So when you come, if you're trying to do 50 feet off of that, we just don't have that space. My thought is always, hey, how can we make this work within the within the regulation? So I move the swimming pool, and if you move twenty five feet to the interior, the pool itself is basically inside of that back living room that they that that they have. So when it comes to the principles of building, having some flat area, this area here is also about six feet higher than this area here. So this area here is the kind of things level out. So they're having steps coming down from this area here until it gets flat, and then they're putting kind of the principal pool structure behind there. And then, big picture wise, fencing the entire thing off—a fence that goes from here over there, over there, and then connecting to that side of the house. So it frames nicely from that window.

It's all self-contained. It's on flat ground. It is just, much to my dismay, about 25 feet too close to the property line.

Mr. Fenstermaker- Nick, he has all the authority to speak for the homeowner?

Mr. Bellas- Yes, he does.

Mr. Laing- It has been signed off by the Geauga Soil and Water Conservation District. That's where we always go first. And from a from a lot standpoint, at least there isn't you know there's not a neighbor, there's not somebody's front yard looking at all of this stuff here. We're pretty far from kind of everyone else's affairs, so that's the working plan I have at this time.

Mr. Fenstermaker- Any questions from the board.

Mr. Hehr- So I'm trying to figure out that swale that goes away from the house. We're getting close to the next door neighbor's property. How does, with swimming pools, you get leaks, you get problems, and water generally doesn't go uphill very well. Correct. So we're building down into that swale, well, we're building down into a swale. What? Who's the adjoining property owner there?

Ms. Teague- Here.

Mr. Hehr- Okay. Is there a drainage process or something that's going to make sure that if there's a problem with the pool, it doesn't flood the neighbor's property?

Mr. Laing- As of as of this exact moment, there's not necessarily, and when it comes to draining, mostly it goes into ground groundwater. goes into goes into the ground and then and then goes then goes down. So at this exact moment, there isn't just the sixty sixty feet that it would take to get to the neighboring property and thats the one to the north. And that's where things go downhill. It goes kind of downhill to the north.

Mr. Fabig- I've Got a question. The fence, is that part of the twenty - six feet eight - inch setback? Is that the fence or the pool?

Mr. Laing- That's the that's the pool corner.

Mr. Fenstermaker- The fence can go right on the property.

Mr. Fabig- Yeah, I was just curious.

Mr. Jones- Are there any plans to enclose? The pool, so that it's not visible from the neighbor's position. Is that neighbor able to look directly into that backyard?

Mr. Laing- Yeah, they're able to look directly into the backyard. True. Right now, it's just a four foot aluminum pool fence.

Mr. Jones- Understood. So there's no house on the back lot, the back line?

Ms. Teague- not at this time

Mr. Fenstermaker- You said about six feet off the house is where the grade starts to level out, and that's where you're going to start the pool.

Mr. Laing- Yeah, It's six feet down. Like it's we're about twenty five feet from the house, but there's a six foot drop within that twenty five. That's why I couldn't push it much closer. Going to be a very large wall.

Mr. Hehr- So my understanding is there's. There's another presentation in opposition or something like that?

Mr. Fenstermaker- Yeah. Once we're done, are we all done with our questions?

Mr. Hehr- Well, I don't know if I'm done. I just want to know, does anyone here with the other opposition like to speak?

Ms. Tammy Teague Hi, I'm Tammy Teague. This is Cindy Teague. This is Mary Sayre. We own all of the properties surrounding this particular lot: the north side, the west side, and the east side. So. So we completely surround this particular plot at this point in time.

Mr. Fenstermaker- You said the east side or the south side?

Ms. Teague- All. North, west, south. Okay. And then the road is on the east.

Mr. Fenstermaker- And that north lot is that buildable or is that all wet.

Ms. Teague- It is partially buildable, but it also, as you can see, butts up. It is our access point to all of our property behind it. So if you are going in there with any type of land development or houses, you're going to have that as your access point into the other property. Any house that would be placed on it would be basically in that kind of open tree area overlooking the lake. So we would actually ask for this request to be denied for several reasons. The first reason is we have had, unfortunately, a long history of problems in this particular area of our land, and this is a newer owner of this property. So you'll see the property line here on the north side. You can tell here that the previous owner as well as the current owner has moved their property onto mine at least fifty feet this way already. They have landscaped this, excavated it, and continued to expand their property onto my property here. They've done the same here. You can't see it as much in this picture. This is actually a little bit of an older picture, but if you look at some of the evidence that we've provided you, they've always they've also pushed their line fifty feet back this way already too. They brought excavating equipment in, took down all of our fields, all of the trees, so on and so forth. Then they proceeded to.

Mr. Fenstermaker- Is this the current owner or the previous owner did all this?

Ms. Teague- Both at this point in time. Most of it done by the previous owner, but the current owner is continuing to basically trespass or continue the expansion onto our property. The lake itself, the owner on this side as well as the owner on this side got together and decided that they would drain the lake on my property. So there's evidence you'll see in the file that all through here they dug a huge hole over on this side, dug out all the soil, and then put a pump in the pond and tried to actually drain the entire pond out.

Cindy Teague brought the file with pictures showing damage to the board

Mr. Fabig- That lake is on your property, 100 percent.?

Ms. Teague- Yep. You'll see it from the line here. The lake is completely contained within our two properties here. Okay. They dug out the lake. The current owner has actually now put an aerator pump device into the lake. Again, with no approval or no notification to me as the owner of the lake itself. He's also continued to put additional pathways through this part of the property down to the lake, so that he can have access to the lake for potentially other boats and equipment that we tend to find. So, what we what we've been experiencing. We've owned this property for very long time and paid the taxes on this property. Is we have a continual activity of people not respecting the current boundary lines, and therefore we're quite concerned about any additional variances or requests that are granted for the people that are now the current owner of this property?

Mr. Hehr - Is there any active litigation? Has there any notice that's been appropriately filed? Has Nick been informed?

Ms. Teague- We, what we were advised to do was go through the Geauga County Sheriff. We have filed multiple police reports, all of which were closed without any resolution.

Mr. Fabig- Is the property staked? Your property? Are there stakes? Has it been surveyed? There's stakes present. Are they visible?

Ms. Teague- Yep. And in fact, these properties here, this and then this adjoining property, all is ours. Coming this way, all of that has been recently resurveyed about two months ago, and there's all new stakes on that property also. We have people that are continually coming from these lots back here, getting in this lake, coming back to our lake back here. And they've literally destroyed the beach back there with their ATVs and vehicles, tearing that all up. They've taken the swing set that we had back there for the kids and threw it in the lake.

Mr. Laing- The Halliday's did this?

Ms. Teague- No I'm talking about the trespassing that we're having coming through this property. Okay. So I'm just giving an overview of why we're pretty against this particular request. From the perspective of what we've been experiencing for quite a long time, with basically a lack of respect of any boundary lines that even exist today, so giving people

additional variances and giving them more space to broaden is a concern of mine. The second concern, which I think you guys asked some very good questions, is what are they, and that, and you guys would have to help me understand, but it was presented to us as though they want to go from instead of a 50 foot setback to a 33.8 foot setback. But if you look at your plan and as you present it today, that is to the corner of the pool, right? So one, we'd like to understand what is the if you're going to put a four foot fence around the entire pool, and if you look at their design..

Mr. Fenstermaker- Hang on a second. that thirty - three feet. I'm not sure where you're getting that from. They're asking for twenty foot, twenty - six foot eight. And Scott, I forgot to mention we don't have a full board tonight. Usually you have five people on the board, and you need three votes to pass. Sure. And we only have four people, so you still need three votes. I just forgot to mention that.

Mr. Laing- I understand. No need to defer to a different date.

Mr. Fenstermaker- Okay, I just wanted to make sure that were okay. Go ahead.

Ms. Teague- So according to this map, what they were talking about is that they would be 26. 8 feet away from the rear line. Rear line, right? And that's based on where the corner of the pool is, right? But as you can see, there's an expectation that there is a patio around the pool, and you've also heard. From premier pools that they're going to put a fence around that, so we'd like to understand.

Mr. Fenstermaker- The fence doesn't matter. You can put the fence on the property line. Okay, that doesn't matter.

Ms. Teague- The other question you guys asked is around drainage. That also we would like to understand what is the plan for drainage because a pool of this sort does have to have drainage coming out of the bottom pool that is used on a regular basis. Right, it's not only used for emptying portions of the pool if there's any type of damage to the pool or winterizing the pool, but there also is weekly maintenance of this type of pool where you have to purge your filters and your water system and everything to actually empty that water. So there has to be piping, which I'm not sure where the piping is or where that is draining to within the water table, and as you guys pointed out, if the natural drain is to actually move it towards my property, then I think there's some concern about how far, where are those pipes actually going to be, and where are going to be the endpoints that it drains into. As far as any further development that I'm going to do on my own personal property, does that make sense?

Mr. Fabig- Is this an above ground pool or is it built in?

Mr. Laing- no

Mr. Hehr- Can you answer her questions, to us, not to her. I I like her questions, but if you'll answer to us, we'd appreciate it.

Mr. Laing- Sure. Yeah. Thank you for telling me all that information. That's all stuff I'm of course hearing for the first time. I'm unfamiliar with the Halliday's by and large unfamiliar with your guys' situation. It sounds like you've been through an awful lot. I appreciate your candor because you know at the at the end of the day, if this were a different municipality, we wouldn't kind of be having a meeting because the 50 feet there's plenty of municipalities where it's you know 20 feet from the property line, 15, five. So I don't correct me if I'm wrong, if this pool were 25 feet to the interior and not violating any kind of city rules to the point where we didn't have to have this variance meeting, do you think it's fair to say you'd still be in opposition to the project?

Mr. Hehr- So it's not an inquisition of her. She asked several questions. Okay, so things that surrounded drainage, it's things like that that I had asked also. So if you can give us more of an explanation on that, that would help me make a decision, not being a pool expert.

Mr. Laing– Sure, yes. When it comes when it comes to pool drainage, at no point during your pool owning career should your pool be empty. Because absolutely no circumstance where all the water needs to come.

Ms. Teague- I agree, but you have to take a portion.

Mr. Hehr- Please let him answer this question. I apologize.

Mr. Laing- There's absolutely no circumstance where the where the water is allowed to come out of the pool to the point where the pool is empty. It needs to be braced. The pool has the capacity to bubble, heave, come out of the ground. What's known as what's known as floating. So the fourteen or fifteen thousand gallons of water will never just be rolling downhill, kind of kind of free flowing. If it is, it's coming 60 feet onto their property, mainly going into their own ground water. It's a lot of distance to kind of their yard would be pretty darn soaked. And when it comes to kind of weekly, I don't know what pumps you're talking about.

Ms. Teague- When you're flushing your filter system, sure. I've been flushing water down to the weekly basis. I have the exact same type of pool in my backyard. Sure, I do it every single week.

Mr. Laing- So then, do you have a sand filter?

Ms. Teague- yes, sand

Mr. Laing- So what we're dealing with is a is a cartridge filter. So there's clarification on the different kind of pool filters. Sand filter is basically a giant egg full of sand. Its use is to get kind of the bits of stuff that's floating around into the water, filtering your water, so that you have clean water returning to your system. In order to clean that type of system, you have to purge it, or it's known as back flush it. What that entails is you put a valve into kind of a certain location and all that stuff that's been building up, kind of back bulges out and kind of comes out in a bit of a gross slurry. We find by and large about 85 percent of the times around the country, clients

don't want to deal with that because it is so gross. It also doesn't filter at quite a quite an acceptable micron rate. So what we use instead is what's known as a cartridge filter. Once every two or three months, that you open it, so you lose approximately 15 gallons of water. There just kind of spills out onto the ground, and then you take a garden hose and you spray off those filters. It kind of looks like any HEPA filter you've ever seen, and then you spray it off, and the dirt that comes off it goes again onto the ground. So it's certainly less water than watering your lawn and washing your car once every two or three months, rather than you have to do that weekly. Rather than weekly pumping your your sand filter, so it is just kind of a different filter altogether. So we find that to be far less water use and spreading around dirt and kind of other things on top of the fact it just happens to filter a little bit at a higher micron rate, a little bit cleaner water.

Ms. Teague- So can I ask the question? I agree that a fiberglass filter you never winterize it by emptying all the water because, quite honestly, exactly what you said, it will collapse on you multiple times. But there normally is to winterize a pool, at least half of the water content.

Mr. Laing- Okay. That can happen with evaporation.

Ms. Teague- And can I ask one other clarifying question? You said that if you tried to move the pool closer to the house, it would be in the living room. But that's not how it

appears, at least on this diagram. It appears on this diagram that there's 33 feet available between that corner of the pool and the house.

Mr. Laing- Sure, but the regulation here is 50. So this is 25. It would have to come 25 feet this direction , and then would then be touching the house. That's what I was illustrating. We can certainly get it further away from the property line. Is there a distance that you would prefer? Like if it's thirty feet, would that make it more comfortable? But I can certainly do that. Angle a little bit.

Ms. Teague- Well, again, I think this is what we're asking at least for today is to not have to approve a variance. So, so what I'm trying to understand is it possible? Is it just possible to place the pole in such a way not to require that variance? Go ahead.

Mr. Fenstermaker- I don't think that's possible, but any footage you could get away from that rear property line is what were looking for.

Mr. Laing- We're open, it just becomes a structural issue once you come off of that. It's also off of the hill that's there. Is that about where that number thirty three is on that paper is where the ground starts to level out. So it can it can potentially you know scooch over a bit, but just won't get us the setback , they just don't have it.

Ms. Cindy Teague- I have a question.

Mr. Fenstermaker-Hold on one second. Hold on, ma'am. Were you sworn in?

Mr. Fenstermaker swore in Cindy Teague

Cindy Teague- I wanted to know. I wanted to ask you. Oh, just a comment on the fact that the surrounding, the south side of this project is all ag, all agriculture. Is that going to be a problem with your pool and your filter system and so on?

Mr. Laing- No problem whatsoever.

Ms. Cindy Teague- Okay. Because all we need access to everything with the farms. So, and I wanted to bring it up at least at one point. Okay. I know there's something else on. I'll think about it.

Ms. Tammy Teague- I know I have no further questions.

Mr. Jones- I just had a question about the location again. You're saying where the fire pit is its too low to build. Correct? So, it's not adequate at all for any type of construction?

Mr. Laing- It's on it's on quite a pitch.

Mr. Jones- So there would be no way to correct put in soil and build it up.

Ms. Tammy Teague- May I? I have the same problem in my lot putting in a very similar pool, and we had to actually put in a retaining wall.

Mr. Jones- That's what I was thinking.

Ms. Teague- We had to put in a rain retaining wall, backfill it with gravel, and then place the pool in that area for the exact same reason. So you can put them in a low area, but it is at an additional expense of building that type of retaining wall.

Mr. Laing- And also, when you put swimming pools at the bottom of a hill where water tends to collect, the hydrostatic pressure danger to the to the structure certainly that certainly that that exists, just not a smart thing.

Mr. Fenstermaker- It would be possible to get that twenty six, eight to thirty feet. Is that a possibility?

Mr. Laing- Oh, the twenty six. You can certainly come to thirty. Absolutely. Or just take a little bit of a pivot, and probably even slightly, more than that. You know, without the without the computer system, I can't tell, but I I know it certainly can be turned. You know, the fine art of compromise. I'm not married to this position at all. Id put it 50, 55 feet from the property line if I could. So it's a just we're dealing with a complication also from. the project, as you as you look at this thing from their window, let's say for instance, it's where that fire pit is, which would put it closer to the lake, which now I don't like, especially from a drainage situation. I feel like the

further it is from that from that lake, the better. When you go to use that pool, they then would have to exit their property and go downhill. Where it is. just when it comes to a pleasing project, it just sort of is in the in the spot where it was. I would certainly, certainly like it, like it to be, you know, taking, it over and, and sliding it down. Aside from it being structurally kind of a problem, it would look crazy.

Mr. Fenstermaker- So, did I hear you just say that the only reason that you need the variance is aesthetics?

Mr. Hehr- No, the only reason we need the variance is because we don't. Even if we slid it over twenty, twenty - five feet, we'd be in the back.

Mr. Hehr- Well, you said you could move it to fifty - five feet and you'd be okay.

Mr. Laing- Well, I would love it if that were the case.

Mr. Hehr- Okay, so I misunderstood. You can't do it fifty - five feet.

Mr. Laing- Correct. That was hyperbole.

Mr. Mr. Fabig- But you could do thirty or a little more.

Mr. Laing- Yeah, I could probably do thirty, thirty - five, give or take.

Mr. Laing- Like I said I'm open. I'm not trying to step on your toes at all. You know, right. So it has nothing. Doesn't necessarily have anything to do with the swimming pool or this design. It goes much deeper than that. So I'm happy to work on the design since it really has not a lot to do with that in the first place.

Mr. Fenstermaker- Questions? Thoughts?

Mr. Laing- Because when it comes to a neighbor, when it comes to a neighbor being unhappy, that's also not what I'm here for. I'm here to make accommodations in any way that I can.

Mr. Fenstermaker- Well, that's what we're going to try to do. Also, yeah, make everybody happy. Right. Yeah. Would like to make a motion?

Mr. Fenstermaker- Can we go to that thirty - five feet? You're okay with that?

Mr. Laing- I can do that.

Mr. Fenstermaker- Make a motion at thirty-five.

Mr. Hehr made a motion to allow a variance of 15 feet from the edge of the pool and the rear lot

Mr. Fenstermaker seconded

The Board Secretary conducted a voice vote roll call.

Mr. Hehr- yes

Mr. Fenstermaker – yes

Mr. Fabig- yes

Mr. Jones- no

Motion Passed

The Motion for the area variance was approved.

Mr. Fenstermaker- All right, it passed. They do have 30 days to appeal this, so don't start the project in 30 days in case there's somebody appeals our decision. Interesting. If nobody was here against it, usually you don't have to worry about that. But I'd wait 30 days.

Ms. Tammy Teague- May I ask if you guys know if as the construction goes on and there are any issues or draining issues as this goes into reality. Who do I contact?

Mr. Fenstermaker- Water, and soil.

Ms. Tammy Teague- Water and soil. Okay, I'll try.

Mr. Hehr- And I do want you to know that we definitely heard your positions. The way our board is designed, though, we can address the things that were brought in front of us. So while the other issues, I completely understand. I think that I can see what's going on. So it's got nothing to do with whether we believe you or don't believe you or anything else. The only thing that we can address is what's been put in front of us and the health and safety of the community.

Ms. Tammy Teague - I'm just also getting this on record because, like I said, this is a continuation of quite a while, right? And so far, none of the Geauga County offices are shut out of the system in any way. So we just continue to put things on record.

Mr. Hehr- I appreciate that.

Ms. Tammy Teague- Yep. Thank you.

The Board signed minutes from the previous meeting

Mr. Fenstermaker and the BZA went over the Findings of Fact for this hearing, to review the issues related to the facts for this case.

Area Variance

A. **Whether the lot in question will yield a reasonable return or whether there can be any beneficial use of the lot without the variance?**

Applicant- With the relative small size of the rear yard space , they cant really do a pool project with the 50 foot setback.

BZA Review:

B. **Whether the variance is substantial?**

Applicant- We are asking for 23'3 doing what we can to stay as far from the line as possible

BZA Review: we consider anything over 50% substantial

C. **Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer a substantial detriment as a result of the variance?**

Applicant- The neighborhood will not be altered

BZA Review: 60 feet of land for runoff should absorb water

D. **Whether the variance would adversely affect the delivery of governmental services**

Applicant- will not affect governmental services

BZA Review:

E. Whether the lot owner purchased the property with the knowledge of the zoning restriction?

Applicant- they did not know

BZA Review:

F. Whether the lot owner's predicament feasibly can be obviated through some method other than a variance?

Applicant-The variance is the only real way to accomplish what they have planned

BZA Review: yes

G. Whether the spirit of the intent behind the zoning requirement would be observed and substantial justice done by granting the variance?

Applicant- We feel that it would yes

BZA Review: We can only talk about the current case presented

Mr. Hehr Made a motion to Adjourn

Seconded By Mr. Fabig

Meeting adjourned by Mr. Fenstermaker at 8:15pm

Lewis Tomsic, Jr., Chairman

Mike Fenstermaker

Scott Koller

Albert Hehr

Dave Fabig

Jay Jones (alternate)

As approved by: Amy Lydan, BZA Secretary