

TOWNSHIP OF PINE ZONING HEARING BOARD

APPLICANT: ACA Revocable Trust
LOCATION: 431 Heights Drive
ZONING CLASSIFICATION: R-1
SUBJECT: Request for variance under §84-28(E)
APPEARANCES FOR APPLICANT: Daniel Carroll (Seven Seas Pools)
APPEARANCES FOR TOWNSHIP: Gary J. Gushard, Esq.
John Swinderman (Code Enforcement Officer)
DATE OF HEARING: September 12, 2018

FORMAL NOTICE OF DECISION

You are hereby notified, pursuant to the Decision reached at the hearing conducted on September 12, 2018, of the following:

1. Applicant installed an in ground swimming pool in the rear of its property. Upon completion of the installation, it learned from the Township that the pool was installed at a distance too close to their existing house and, therefore, it was in non-conformance with § 84-28(E) of the Code which requires a 10' setback from a pool to the main structure. More specifically, the pool is 7' 5" from the chimney of the house and 8' 10" from the addition wall.

2. Applicant maintains that it would not have been able to comply with the 10' setback of the Code because of the presence of a sanitary sewer easement in the rear of their property and that, to move the pool further from the house, would not have been possible otherwise in view of the slope of the property.

3. Pine Township Code § 2-31 authorizes this Zoning Hearing Board to hear requests for variances from the Pine Township Zoning Code. The standards for the grant of a variance are set forth in § 10910.2 of the Municipality Planning Code (“MPC”) which provides as follows:

§ 10910.2. 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 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 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.
 - (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.
 - (3) That such unnecessary hardship has not been created by the appellant.
 - (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.
 - (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.
- (b) In granting any variance, the board may attach such reasonable conditions and safeguards as it may deem necessary to implement the purposes of his act and the zoning ordinance.

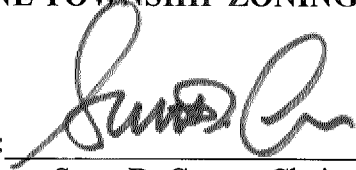
4. Notice was given to adjacent property owners by posting and no person appeared to oppose the request for relief from the Code.

5. Based on the evidence introduced, the request for variances is granted as shown as limited on the drawing appended hereto at Exhibit A, namely a 2' 7" variance from the pool to the chimney and 1' 2" variance from the pool to the addition wall.

6. Any deviation from the condition of the granted variances shall render said variances null and void.

7. The grant of the variances shall expire if not implemented within one year of the date of this Formal Notice of Decision.

PINE TOWNSHIP ZONING BOARD

By: 

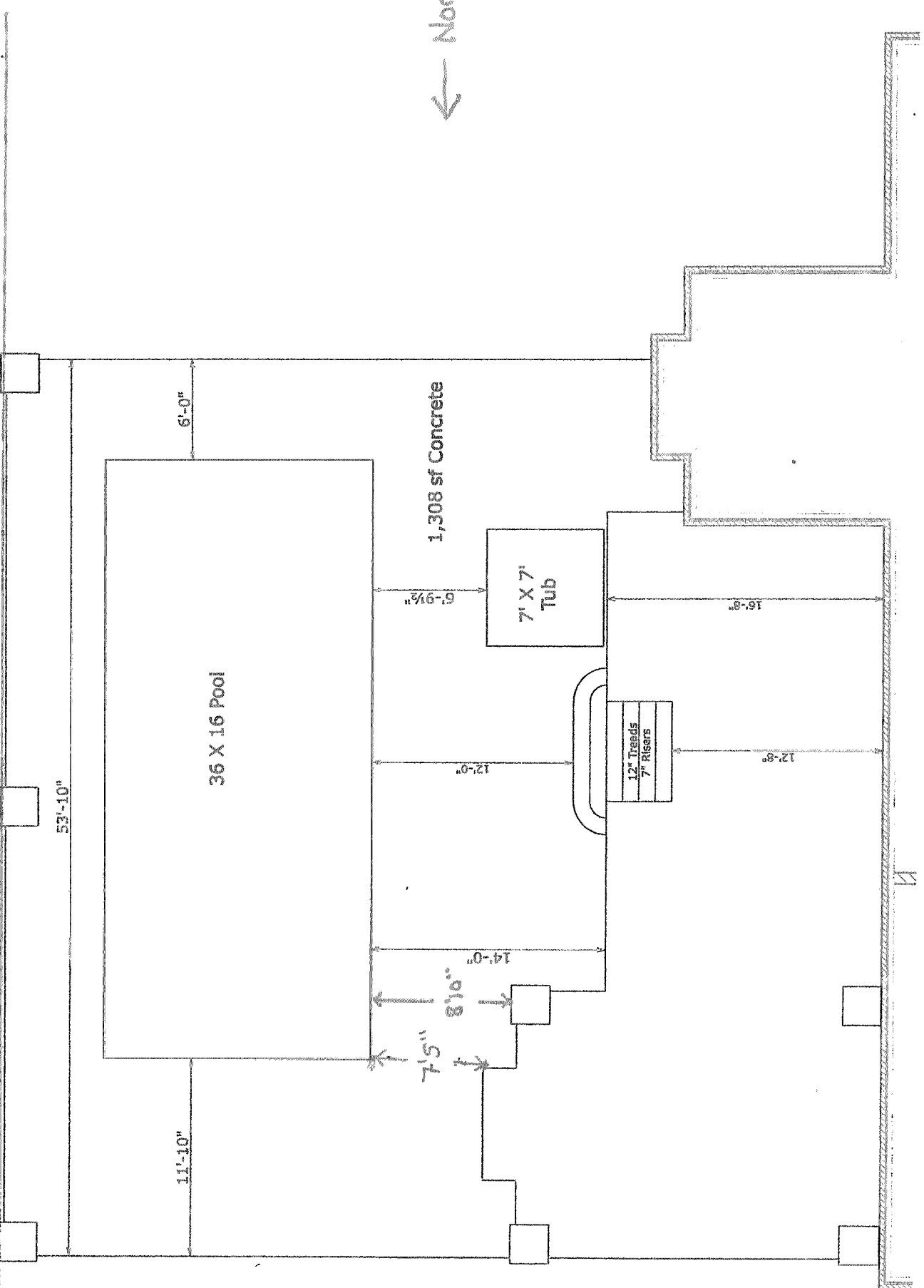
Scott D. Cessar, Chairperson
Sandy Cikovic
Lisa Earl
Jason Merante

Filed this 13th day of September, 2018.

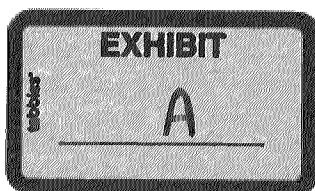
MTSA Line

↑ 10' ↓

MTSA SET BACK



← North



TOWNSHIP OF PINE ZONING HEARING BOARD

APPLICANT: Kurt and Allison Alberts
LOCATION: 521 Brookside Drive
ZONING CLASSIFICATION: R-3
SUBJECT: Request for variance under §84-28(E)
APPEARANCES FOR APPLICANT: Kurt Alberts
Allison Alberts
APPEARANCES FOR TOWNSHIP: Gary J. Gushard, Esq.
John Swinderman (Code Enforcement Officer)
DATE OF HEARING: September 12, 2018

FORMAL NOTICE OF DECISION

You are hereby notified, pursuant to the Decision reached at the hearing conducted on September 12, 2018, of the following:

1. Applicants request a 5' variance from the 10' setback requirement set forth in § 84-28(E) of the Code in order to install a 14' x 28' in ground swimming pool. The variance would result in the swimming pool being located 5' from Applicants' rear covered patio, as opposed to 10,' as required by the Code.

2. Applicants maintain that the variance should be granted based on the significant slope-hillside of their property which precludes other options for locating the pool. Applicants also maintain that, due to the layout of their property, there is only one access point for heavy equipment and, with the installation of necessary retaining walls, there would not otherwise be adequate space to access the other side of the swimming pool.

3. Pine Township Code § 2-31 authorizes this Zoning Hearing Board to hear requests for variances from the Pine Township Zoning Code. The standards for the grant of a variance are set forth in § 10910.2 of the Municipality Planning Code (“MPC”) which provides as follows:

§ 10910.2. 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 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 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.
 - (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.
 - (3) That such unnecessary hardship has not been created by the appellant.
 - (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.
 - (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.
- (b) In granting any variance, the board may attach such reasonable conditions and safeguards as it may deem necessary to implement the purposes of his act and the zoning ordinance.

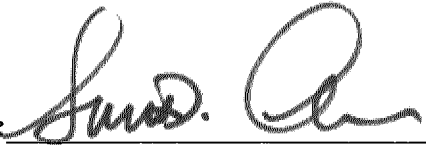
4. Notice was given to adjacent property owners by posting and no person appeared to oppose the request for relief from the Code.

5. Based on the evidence introduced, the request for a 5' variance from the 10' setback requirement from the edge of the swimming pool to the rear covered patio is granted.

6. Any deviation from the condition of the granted variance shall render said variance null and void.

7. The grant of the variance shall expire if not implemented within one year of the date of this Formal Notice of Decision.

PINE TOWNSHIP ZONING BOARD

By:  _____

Scott D. Cessar, Chairperson
Sandy Cikovic
Lisa Earl
Jason Merante

Filed this 13th day of September, 2018.