

**Board of Zoning Appeals Meeting  
December 11, 2008  
ZA-13-08**

Members/Attendance:       X     Hank Grover  
                                  N/A   Jim Burgham  
                                  X     Al Franceschelli  
                                  X     Jim Pluchinsky  
                                  N/A   Maria Rutana  
                                  X     Bill Custer  
                                  X     Holly Grant

Also in attendance:        X     Bob Monus, Zoning Inspector  
                                  X     Michele Richards, Recording Secretary

Hank Grover called the meeting to order at 7:00 p.m.

**1<sup>st</sup> Order of Business:**

Jim Burgham stated that the first order of business is to approve the minutes from the November 13, 2008 meeting. Al Franceschelli made a motion to approve the minutes. Bill Custer seconded the motion. All board members were in favor. Motion carried.

**2nd Order of Business:**

*Case #ZA-13-08 – A request by Ronald Bunofsky who is appealing the decision of the Zoning Inspector with regard to swimming pool regulations for fencing around an in-ground pool for property located at 1774 Bedford Road, known as parcel #41-106-0-011.00-0, great lot number 77. Parcel is located in Poland Township, Lowellville, Ohio, in an (AG) Agricultural District.*

Items included in packet submitted:

1. Application for Variance
2. Zoning Permit Denial Form
3. Letter of Intent
4. Warranty Deed
5. County Map
6. Property Description

Hank Grover read the letter of intent submitted by the Appellant. Hank Grover asked if there was anyone present to speak in regard to this case.

**Ronald Bunofsky  
1774 Bedford Road**

Bunofsky distributed a handout to the Board members – “Pool Safety Nets for Swimming Pool Protection by Pool Guard”, along with some pictures of the pool.

Bunofsky stated that he has three positions. For his first position, he referred to his letter of October 28, 2008, addressed to the Board of Zoning Appeals. He referenced a statement in this

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letter whether or not the township has the authority to govern buildings or structures on an agricultural piece of property that is over five acres.

For his second position, he referred to his letter of October 24, 2008, addressed to the Board of Zoning Appeals. He referenced the second paragraph of this letter regarding Ohio Revised Code Title (5) Townships, Chapter 504: Limited Home Rule Government, Sections .04 and .13. He stated that even though the township is not home ruled, he believes that the county has the authoritative voice.

For his third position, he referred to the handout he presented to the Board members. He stated that he purchased the home approximately four years ago. The pool was installed in the early 1970's. The pool is not ground level; it is raised up about forty inches. There are two safety devices on the pool at all times. The winter cover, which cost two thousand five hundred dollars (\$2,500), is on the pool for nine months. He stated that the safety devices work better than the traditional fence.

Hank Grover asks if anyone else would like to speak in regard to the request. No one responds.

Holly Grant stated that the home rule does not apply. The County does not have the authority; the Township does supersede the County.

Hank Grover asked Bob Monus if Mr. Bunofsky filed a complaint in April of 2007 against his neighbor. Monus stated yes, that is correct. Grover asked if that was in regard to a fence not being around the pool. Monus stated yes. He explained that there was an in-ground pool next door to the appellant's that did not have a fence around the pool. He stated that is how he came across the appellant's pool not having a fence either.

Hank Grover stated to Bunofsky that the variance is with the land, not the property owner. He also stated that he went on a web site that Bunofsky had provided to the Board. Grover referred to an item on the web site under safety facts and tips which stated, "estimates predict that the widespread use of pool fencing would prevent 50 to 90% of pediatric pool drowning." Another item says to "enclose the pool with a barrier, in fact, fencing may be required in certain areas, check your local city or county building code for more information." Grover stated that the pool net that Bunofsky has is probably the most secure cover that you can buy, aside from a concrete lid. However, the net does not meet zoning requirements of a fence. He stated again that the variance does run with the land, not the property owner.

Holly Grant stated that the pool net does not meet the requirement of a six foot (6') fence. The fence is necessary to prevent easy access to the pool.

Monus stated that the fencing is a condition of the zoning permit. There was never a zoning permit on record for the pool.

Al Franceschelli addressed Bunofsky stating that the Board does not doubt that he is closing the pool after each use. The Board's concern is the fence, and zoning requires a six foot (6') fence around the pool.

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Bunofsky stated that he understands the rule. He stated he believes the criteria for the variance is met.

Hank Grover stated this matter is a safety issue. This variance is a matter of public safety and should not be taken lightly.

Holly Grant stated that unnecessary hardship does not exist in this case to warrant granting the variance.

After further discussion, the following motion was made:

***Motion***

*Holly Grant made a motion in Case ZA-13-08 to deny the variance request. Al Franceschelli seconded the motion.*

Voting:

Yes Al Franceschelli  
Yes Holly Grant  
Yes Bill Custer  
Yes Jim Pluchinsky  
Yes Hank Grover

Motion carried.

Meeting adjourned at 7:50 p.m.

Submitted by:  
Michele Richards/Recording Secretary

cc: Trustees (3)  
Board of Zoning Appeals (7)  
Zoning Commission (7)  
J. Granitto (1)  
File (1)