

# WHITELAND BOARD OF ZONING & APPEALS

August 4th, 2022

## Board Members

Gary Howard, President	<u>    X    </u>
Juanita Emery, Member	<u>    X    </u>
Byron Temple, Vice President	<u>    X    </u>
_____	<u>          </u>
_____	<u>          </u>

## Other Town Officials Present

Melissa Fraser, Deputy Clerk Secretary	<u>    X    </u>
Jim Lowhorn, Town Manager	<u>          </u>
Carmen Young, Community Development Director	<u>    X    </u>
Jacob Bowman, Town Attorney	<u>    X    </u>

### Call to Order:

G. Howard called the meeting to order at 7:00 pm

### Pledge to the Flag

### Roll Call & Determination of Quorum:

- Quorum requirements reached

### Approval of Minutes:

- B. Temple made a motion to approve April 7<sup>th</sup>, 2022, minutes as presented. J. Emery seconded the motion. **Passed 3-0**

### Swearing in for Public Hearing:

- Completed by J. Bowman at 7:02pm

### Communications/Reports of Committee:

- C. Young update – BZA has 2 openings. We have a candidate in front of Town Council on Tuesday and are hoping to fill 5<sup>th</sup> spot as well.

### Old Business:

- NA

### New Business:

- **Case 2022-V-02 - Variance from Development Standards**
  - Petitioner: Kevin Connolly
  - Request: The petitioner is requesting an encroachment of the drainage & utility easement with an inground pool and concrete pad.
  - C. Young – Staff Report - The property is located at 96 Mission Terrace Dr, Lot 71 in Section 3 of the Millstone Subdivision. The property is zoned R-1.
  - C. Young goes over staff report and zoning review.

- Homeowner did get approval from HOA.
  - The State has standards for variances and homeowner was asked to give statements regarding conditions required. Staff was also asked to give their findings.
  - Staff Findings: The pool and concrete pad that encroaches the easement **WILL** be injurious to the public health, safety, morals and general welfare of the community due to the fact that the corner of the pool and the concrete pad around the northern portion of the proposed location is within a drainage and utility easement. The storm sewer pipe is approximately 4' under the surface and if it would need to be dug, the trench would be approximately 6'-8' in width. Removal of the concrete and fence that is already located within the easement will be additional work for the Town employees or contractors that would need to access the storm pipe within the easement.
  - In addition, the concrete pad that surrounds the pool is what holds the pool liner in place and if the concrete pad needs to be removed or is disrupted for work within the easement the integrity of the pool liner could be compromised which could be detrimental to the homeowner's pool.
  - Staff recommends **denial** of the petition based on the above findings of fact.
  - Kevin Connolly - 96 Mission Terrace Dr. - Area of concrete that surrounds the pool – its more the patio and walkway – not the retaining wall or wall that holds pool in place and we accept that risk. WE could go with custom pool, but we've already put 10-20% down on this and we'd lose money. Trish Connolly – This is a practical item for our family. Pool will be nice for our home life. We have another drawing with a min of 3ft instead.
  - J. Bowman – for the record – no one present that has issues.
  - G. Howard made a motion to approve variance Case 2022-V-02 with 2 conditions: encroachment letter with attorney is drafted and that concrete is no more than 3 ft into easement. B. Temple seconded motion. **Passed 3-0**
- **Case 2022-V-03 - Variance from Development Standards**
    - Petitioner: Ed Schmeler
    - Request: The petitioner is requesting an encroachment of the drainage & utility easement with a concrete driveway
    - C. Young – Staff Report - The property is located at 324 Cardinal Dr, Lot in Section 4 of the Spring Hill South Subdivision. The property is zoned R-2.
    - C. Young goes over staff report and zoning review. The main reason for request is so that petitioner can park RV on side of house. 10ft wide to front of house and bump out 2ft width and go back another 24ft as shown on drawing.
    - Staff Findings: The driveway extension, although it encroaches the easement **WILL NOT** be injurious to the public health, safety, morals, and general welfare of the community. The only concern with an underground utility is the service line from the power box to the home which will only impact the homeowner.
    - The use and value of the area adjacent to the property **WILL NOT** be injurious to the public health, safety, morals, and general welfare of the community. The 5' from the property line is incorrect as stated by petitioner, after looking at the plot plan for this lot the structure is only 13' 6" from the property. The proposed driveway would be approximately 1.5'-3.5' from the property line. There are at least 3 nearby properties that have driveways that extend into the side yard easement.
    - The strict application of the terms of the zoning ordinance **WILL** result in practical difficulties in the use of the property. The property owner is handicapped and having the additional space will assist him in maneuvering around vehicles that are parked in his driveway.

- STAFF'S RECOMMENDATION: Staff recommends conditional **APPROVAL**, of the petition based on the above findings of fact, upon conditional easement encroachment acknowledgement letter.
- B. Temple makes motion to approve variance Case 2022-V-03 upon conditional easement agreement letter. G. Howard seconded motion. **Passed 3-0**

**Other Business:**

- NA

**Adjournment:**

- B. Temple made a motion to adjourn, G. Howard seconded. Meeting adjourned at 7:55 pm

Passed by the Board of Zoning and Appeals on this day 16<sup>th</sup> of October, 2022

Aye

Nay

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Juanita Emery  
Juanita Emery

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Juanita Emery

Byron Temple  
Byron Temple, Vice President

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Byron Temple, Vice President

Gary Howard  
Gary Howard, President

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Gary Howard, President

Attest:

Melissa Fraser  
Melissa Fraser, Deputy Clerk, Secretary

