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November 27, 2024
22200 66

Re: Nerney - pool
Bulk Variance
25 Brandywine Drive
Block 3.01, Lot 33
Application # Z24-21

Ms. Jennifer Newton, Board Secretary
Township of Evesham
984 Tuckerton Road
Marlton, NJ 08053

Dear Ms. Newton:

Our office has received a Variance application for the referenced property. The applicant is seeking relief for side and rear yard setbacks for an existing above ground pool and deck. The existing site improvements include a single family dwelling, driveway, above-ground pool with deck, fencing and landscaping.

The property is a single-family dwelling. The zoning district is Medium Density (MD). The single-family detached dwelling is a permitted use within the zoning district. The dwelling is located within the Woodstream subdivision with surrounded by single-family dwellings.

Submitted Application Materials

We have received the following documents which were submitted in support of the application:

1. Township of Evesham Land Development Application.
2. Zoning Denial.
3. Photos of existing conditions, taken September 19, 2024.

General Information

Owner: Michael and Terese Nerney
25 Brandywine Drive
Marlton, NJ 08053

Zoning Review

The property is located in the Medium Density (MD) zoning district. The requirements for this district are found in §160-64 and Attachment 11.

1. Per §160-58B(2), a single family dwellings are a permitted use in this zoning district.
2. Per §160-58D, private residential swimming pools are accessory uses in this zoning district.
3. The following area and bulk requirements apply to this application:

Area and Bulk Requirements – MD Zoning District:
§160-64 and Attachment 11

Requirements	Required	Existing	Proposed	Status
Principle Structure				
Min. Lot Area	10,000 SF	10,000 SF	N/C	C
Min. Lot Width at Setback	80 FT		N/C	C
Min. Front Yard Setback	30 FT		N/C	C
Min. Rear Yard Setback	25 FT		N/C	C
Min. Side Yard Setback	10 FT		N/C	C
Max. Impervious Cover (Percent)	45 %		N/C	N/C
Accessory Structure (Pool)				
Min Side Yard Setback (1/2 of principal)	5 FT			
Min Rear Yard Setback (1/2 of principal)	5 FT			

C = Conforming; N/C = No Change; N/A = Not Applicable; Unknown

Variances

1. The applicant will require a variance from §62-62. Pools shall be located in rear or side yards only and shall meet the setback requirements for accessory buildings (§160-64E) except in no case shall a swimming pool be located closer than 15 FT to any lot line.

The applicant has not provided sufficient information for the Board to make an informed decision regarding whether to grant relief for this proposal. Only estimates of the setback distances to the side and rear yards have been provided. It would behoove the applicant to have a survey completed which will provide these dimensions needed by the Board to evaluate the application.

2. The applicant may require relief from §160-65 and Attachment 11 which states that the maximum impervious coverage in this zoning district is 0.45. The maximum coverage permitted is 4,500.5 SF based upon the parcel size provided by the applicant.

The Applicant has the burden of proof to justify the variance, by testimony or other means, by using either the c(1) or c(2) proofs.

For c(1) variances the Applicant must demonstrate that strict application of the zoning requirement would have “peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon the Applicant arising out of:

- a. The exceptional narrowness, shallowness, or shape of a specific piece of property, or
- b. By reason of exceptional topographic conditions or physical features uniquely affecting a specific piece of property, or
- c. By reason of an extraordinary and exceptional situation uniquely affecting a specific piece of property or the structures lawfully existing thereon.

For c(2) variances the Applicant must demonstrate that:

- a. The purposes of the Municipal Land Use Law (MLUL) would be advanced by a deviation from strict application of the zoning requirement;
- b. The variance can be granted without substantial detriment to the public good;
- c. The benefits of the deviation would substantially outweigh the detriment; and
- d. The variance will not substantially impair the intent and purpose of the zone plan and zoning ordinance.

General Comments

3. Per Attachment 3, Pool Variance Submission Checklist, the following should be provided. While this office understands that the pool is existing, with a provided survey, exact measurements for the requested setback

relief and possible impervious coverage relief can be discussed. This will assist the Board in making an informed decision.

- a. Sealed survey showing all existing and proposed conditions, including all setbacks.
 - i. While it is understood from the Zoning permit denial that this pool has been in place prior to 2000, relief was never requested from the setback requirements of Chapter 160-64. The survey would also provide further information as to other variances which may be required, such as impervious surface coverage.
 - ii. Further, it is also understood that there are to be no changes to the existing site.
- b. Topographical survey showing existing and proposed contours/elevations.
- c. Building and lot coverage worksheet.

Administrative

4. We reserve the right to make further comments in our review of plans should additional information become available to address this initial review.
5. All future resubmission of plans shall clearly indicate a revision date and be accompanied by a response letter addressing all comments from the Township staff in a point-by-point fashion.

Should you or the applicant have any questions, please do not hesitate to contact the undersigned.

Sincerely,



Rakesh R. Darji, PE, PP, CME, CFM
Zoning Board Engineer

RRD/mbs

cc: Matthew Wieliczko, Esq., Board Solicitor, via email mwieliczko@zwattorneys.com
Michael and Terese Nerney, Applicant, via email [REDACTED]