

MEETING DATE: 8-13-20

BOARD OF ZONING APPEALS

Z20-11

1035 Burntwood Drive



CITY of MEDINA
Board of Zoning Appeals
August 13, 2020

Case No: Z20-11

Address: 1035 Burntwood Dr.

Applicant: Thomas Lane

Subject: A variance from Section 1113.05(1)(2)A.2 of the Planning & Zoning Code to permit a pool partially in the front yard setback when such structures are required to be in the rear yard.

Zoning: R-1, Low Density Urban Residential

Submitted by: Jonathan Mendel, Community Development Department 

Site Location:

The property is located on the northeasterly corner of Burntwood Dr. and Jasper Ln.

Project Introduction:

The applicant requests keeping an above ground pool partially within the minimum required front yard setback along the Jasper Ln. side of the subject property.

The applicant followed the correct permit application process, but Community Development Department staff incorrectly approved the location of the proposed pool partially within the front yard setback on the westerly side of the subject property. This issue was discovered during final permit inspection.

Although staff incorrectly approved the proposed pool location, it does not unilaterally permit noncompliance with the setback requirements. Therefore, the applicant requests this variance in order to keep the pool in its current location which is 20 feet into the minimum required 40 foot front yard setback.

Please find attached to this report:

1. Aerial photograph of the site
2. Applicant's narrative and proposed received

Considerations:

Section 1107.08(b) of the Planning and Zoning Code describes the responsibilities of the Board of Zoning Appeals as such: Where there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of the provisions of this chapter, the Board shall have the power, in a specific case, to interpret any such provision in harmony with its general purpose and intent so that the public health, safety, and general welfare may be secured and substantial justice done.

The request is subject to determination of a practical difficulty as a pool setback variance is requested. There are seven factors that the BZA should consider when evaluating whether or not a practical difficulty exists. These factors are outlined below, along with a discussion of how these factors apply to the application in question.

The applicant shall show by a preponderance of the evidence that the variance is justified, as determined by the Board. The Board shall weigh the following factors to determine whether an area variance should be granted:

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

The pool is setback at least 20 feet from the westerly property line along the Jasper Ln. frontage and located within the yard enclosed by a full 6 foot tall solid fence.

- B. *Whether the variance is substantial;*

The variance is 50% of the minimum required setback, but the pool is not readily visible from outside the property as it is located within the fully fence enclosed yard.

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

The essential character of the neighborhood may not be altered as the subject pool is located within the enclosed yard and visually obscured by a compliant 6 foot tall solid fence.

- D. *Whether the variance would adversely affect the delivery of governmental services (e.g., water, sewer, garbage);*

The variance would not adversely affect the delivery of governmental services.

- E. *Whether the property owner purchased the property with knowledge of the zoning restrictions;*

The applicant's pool permit application was incorrectly approved by Community Development Department staff and, therefore, may have presumed the pool location was compliant.

F. Whether the property owner's predicament feasibly can be obviated through some method other than a variance; and/or

The pool could be moved to a compliant location on the property, but that would not be noticeable from outside of the property due to the fully enclosed yard.

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

Generally, the intent of this requirement is maintain a standard aesthetic of principal buildings along street frontage when the intended or actual consistent character is primarily principal building front facades. The Jasper Ln. side of the subject property is more accurately considered the corner side yard, but is required to maintain the minimum 40 foot front yard setback.

The BZA must weigh the above seven factors for the requested variance and determine if a practical difficulty exists that would merit a variance from Section 1113.05(1)(2)A.2.



CITY of MEDINA
Planning and Zoning Department
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Board of Zoning Appeals
Area/Size (practical difficulties) worksheet

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A. The property in question [will/ will not] yield a reasonable return and there [can/cannot] be any beneficial use of the property without the variance because
The only other place to put the pool has to many trees.

B. The variance is [substantial/insubstantial] because
The pool is already put up.

C. The essential character of the neighborhood [would/would not] be substantially altered and the adjoining properties [would/would not] suffer substantial detriment as a result of the variance because
The pool is behind a privacy fence.

D. The variance [would/would not] adversely affect the delivery of governmental services (e.g., water, sewer, garbage);

E. The property owner purchased the property [with/without] knowledge of the zoning restrictions;

F. The property owner's predicament feasibly [can/can not] be obviated through some method other than a variance because
it would be very costly to move the pool

G. The spirit and intent behind the zoning requirement [would/would not] be observed and substantial justice done by granting a variance because
leaving the pool where it is at would not affect anyone.

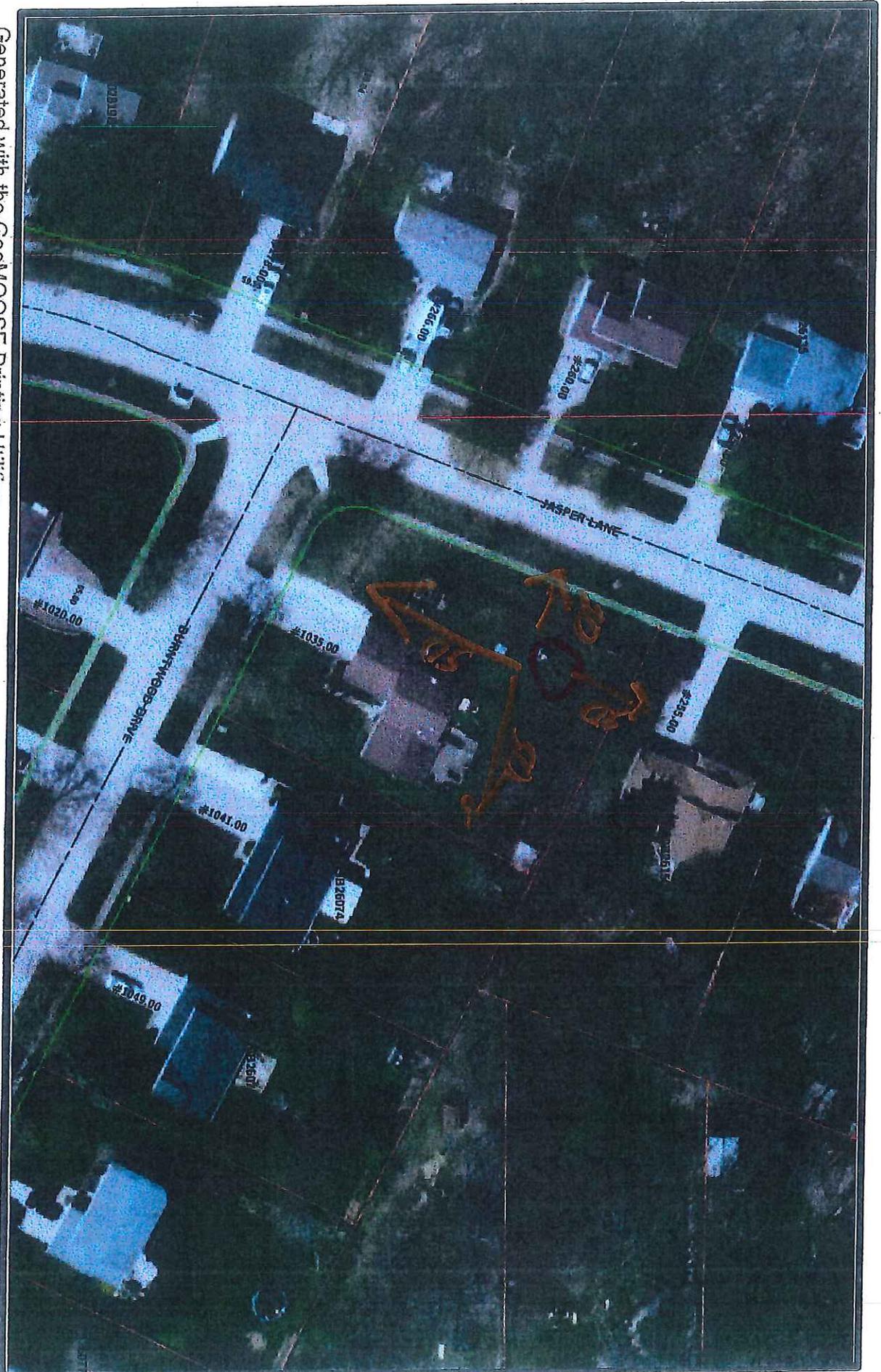
For all of the above reasons, I move the board [approve/disapprove] the request with the following conditions:

Map

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JUN 16 2020
BY 20-883



MOOSEMAPPING



Z20-11
1035 Burntwood Dr.
Pool Location Variance
August 13, 2020

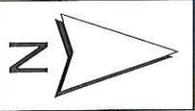
JASPER LN

BURNTWOOD DR



Approx.
Pool
Location

Subject Site



1 inch = 50 feet