

**ZONING BOARDS OF APPEALS
JANUARY 27, 2009
CONTINUED PUBLIC HEARING**

Charles Marino called the meeting to order at 6:30 P.M. with the following in attendance:

Charles Marino, Chair	Public – 13
Arlene Schwartz-Regan, Vice-Chair	Attorney Hess
Basiliza MacCalmon, Secretary-absent	Steve Macary
Edward Rachuba	Rachel Brainard
Juan Gonzales	
David Cronin, alternate	

1. Charles Marino took attendance. He noted there was a quorum. Charles Marino called for a recess at 6:35 P.M. He reconvened the meeting at 6:49 P.M. Chairman Marino appointed David Cronin a regular voting member in place of Basiliza MacCalmon.
2. **APPEAL #1924** – Jeremiah Weid and Dianne Lewis will seek a variance of Section 25.12.2, street or front lot line, of the Naugatuck Zoning Regulations for property located at 139 Union City Road, Naugatuck, CT.

Attorney Slater, representing the applicant, stated at the last meeting that the Commission had asked them to make an effort to come to an agreement with the Savarese for some sort of screening between the pool and their property. The applicant looked into both fencing and plantings. He spoke to Mrs. Savarese today, but was told she was not interested in any kind of proposal for screening and wanted to wait until tonight's meeting to see what the Commission will decide. Attorney Slater went over the history of the pool application. He noted that the court system can make a ruling because the citizen relied on the municipal employee and the applicant will not be held responsible for the things they did. He believes they should let the applicant keep the pool with a granted variance. Cheryl Savarese, 145 Union City Road, wanted to recap what their objections are for not granting this variance. They include the placement of the pool, the variance request for the garage, and that Mr. Weid acknowledges the pool placement is in his front yard. She believes the Weids misrepresented the property to the ZEO. She stated that after last month's meeting, she never heard from the Weids or their attorney until yesterday evening when Attorney Slater called her. She said she did tell him she was not interested in discussing anything now, because it was so last minute. She also wanted to point out to the Commission that the Weids have their house up for sale and have had 2 open houses. She stated she tried to contact Mr. Canez, who owns the land locked property, with hope that he might sell some of it to the Weids, but she hasn't heard back from him. She noted that the pool cuts off access to the new garage

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and now the Weids are using property owned by Mr. Izairy to access the garage. Mrs. Savarese spoke with Mr. Izairy who stated he is apposed to the granting of this appeal.

Anna Hadoba, 115 Union City Road, stated at the last meeting Joe Savarese said her son used the Weid's pool because he is autistic. This is not true. He has not used the pool and is not autistic. She stated the Savareses are a nightmare for the neighborhood and they are never happy. She feels the pool is fine and even told the Weids they could put it in her yard.

George Alexander, 27 Country Hollow Road, is in support of the Weid's pool. He has one major concern he would like on the record. He noted from reading the Citizens News that Joe Savarese is a member of the Zoning Commission and hopes this Commission will give the Weids a fair case. He feels they are doing a good thing for their children.

Attorney Ken Slater stated it was inappropriate for Mrs. Savarese to say that other people are opposed to this appeal when they are not on record stating it themselves. He said he approached the Savareses at the end of last month's meeting and was told they would discuss it after the holidays. He doesn't feel the applicant misrepresented the property. It is in the regulations that you can not have a pool between the principal structure and the road. He noted the applicants have thought about moving but the house is no longer on the market. They do not want to continue having problems like this. Charles Marino asked Steve Macary, the ZEO, to elaborate what transpired. Steve Macary stated the permit Mr. Weid signed says 10 foot rear and side setback property lines. He said he drew the placement of the pool on the map, but it is not up to him to establish where it goes. He stated he has drawn pool on top of sewer easements and on top of septic systems, but it is up to the applicant. He stated Mr. Weid said he is putting the pool here and that they are the Weids and that have sued the town before and they will do it again. Mr. Macary said it clearly states on the bottom of the permit 15x30 above ground pool, rear and side setbacks. Where he signed the permit it states that the information here is true and attached plot plan is accurate. Mr. Macary said you can't have 2 front yards or 2 side yards as his garage does.

Attorney Slater stated the Weids will protect their rights if they are forced to do that with the pool. He said that it was installed exactly where the permit was and they don't have any interest in moving it. Attorney Hess said this case is different from the norm. There are two parts to it, one as if there was no pool built you would have to look at it like all other cases and you should do that in this case. The next part of it is a zoning permit was issued which should not have been issued, you would have to determine whether it was issued by an honest mistake or whether there was misrepresentation. He told the Commission they need to look at the hardship and whether a permit should be issued. Commissioner Marino noted the state statute says reasonable use of the property, but it doesn't say maximum use. Edward Rachuba asked if the private drive takes any precedence over Union City Road. Steve Macary said the frontage is on Union City Road. Attorney Hess said it would have to be interpreted by the Zoning Commission because it is an unusual lot configuration. Commissioner Rachuba said he would look at it as if there was no pool and he would be inclined to allow

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them to put the pool in as long as they put in proper screenage because of the situation of the land. He feels it's unfortunate that things happened the way they did. A discussion ensued over the height of the fence. The Commission wanted an 8 foot fence, but the ZEO said the applicant would need to come back with an application for a variance if the fence was over 6 feet high.

VOTED: 4-1-0 On a motion by Edward Rachuba and seconded by Arlene Schwartz-Regan to **GRANT with conditions** Appeal #1924 Jeremiah Weed and Dianne Lewis seeking a variance of Section 25.12.2, street or front lot line, of the Naugatuck Zoning Regulations for property located 139 Union City Road. Charles Marino opposed the appeal.

1. Granted with the condition the Weids install a 6ft fence and live plantings, when the plantings grow larger they can take the fence out.
3. On a motion by Arlene Schwartz-Regan and seconded by Edward Rachuba to **APPROVE** December meeting minutes.
4. On a motion by Edward Rachuba and seconded by David Cronin to adjourn the meeting at 7:54 P.M.

RESPECTFULLY SUBMITTED: Basiliza MacCalmon, Secretary/rb

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