

**VILLAGE OF TUXEDO PARK**  
**BOARD OF ZONING APPEALS**

**April 7, 2021**

**7:00 P.M.**

**Via Zoom**

Present: Chairman John (Jake) Lindsay  
Member Gerard (Gary) Pompan  
Member David Christensen  
Member Nancy Hays

Absent: Member Mary Darby

Also: Alyse Terhune, Esq., BZA Attorney  
John Ledwith, Technical Host/Building Inspector

Others: Nicholas Shumaker, Nacole Snoep, Karen Arent (Landscape Architect for the Applicant), Chris Huntington

Chairman Lindsay called the Board of Zoning Appeals meeting to order at 7:00 p.m. The motion was seconded by Member Pompan. The vote was 4 – 0 in favor.

There was no physical meeting location in order to ensure the health, safety, and welfare of all involved, in compliance with Executive Order 202.1, the meeting was conducted via video/teleconferencing – Zoom.

Chairman Lindsay stated that this meeting is for the application of Nicholas Shumaker & Nacole Snoep, Tax Map No. 107-1-41, 104 Clubhouse Road, seeking relief from the following section of the Village Code :

- a. Village Code Section 100-8 Yard Setback, where the required side yard setback requirement is 50' and the plans submitted indicate a setback of 25', requiring a variance of 25' or 50% .
- b. Village Code Section 100-8 Rear Yard Setback, where the required rear yard setback requirement is 50' and the plans submitted indicate a setback of 32', requiring a variance of 18' or 36%.

The applicant is seeking relief in order to construct a pool and patio.

The notice of tonight's meeting was published in The Times Herald Record on March 22, 2021.

For the record, Building Inspector Ledwith confirmed all neighbors were properly noticed and publishing of affidavit was duly posted. Neighbor Anthony Skutnik, at 54 Tower Hill Road East, expressed concerns with the placement of the proposed fence and wanted more information. Neighbor Robert Zgonena, listed at P.O. Box 764, Tuxedo Park, did not respond to notice.

Landscape Architect, Karen Arent, presented on screen site plans for the BZA to view and discuss. The pool and patio were designed in keeping with the aesthetics of the house and to create balance without visual or noise impact to neighbors.

Chairman Lindsay suggested the applicant explore alternate solutions that could mitigate the location of the pool to lessen the variance.

The pool measures 46' in length and will need two variances based on the location of the pool. The Shumaker's concluded in order to preserve the integrity of the property and the symmetry of the house, the current size and placement is optimal. The Shumaker's noted the variance granted to their neighbor the Huntington's, in 1996, is not a far departure from their proposed plans and should set a precedent.

Neighbor Chris Huntington, in support of the applicant, noted the pool's aesthetic style did not have a negative impact to the neighborhood and all neighbors have a pool.

Chairman Lindsay proposed moving the pool closer to the house and shortening the length of the pool.

Member Christensen noted the design inspiration is well done and the neighbors do not have any disagreement. The pool design projects an element of beauty and functionality.

Attorney Terhune noted that although a tennis court was once a structure on the Shumaker's property, once a structure is taken off the land it has no relevance.

Both Chairman Lindsay and Member Hays reiterated their concerns for a substantial variance. Shortening the pool and shifting the location of the pool to decrease the amount of side yard variance should be considered.

Member Pompan noted that the uniqueness of the property doesn't determine the variance. The code determines the variance.

The applicant considered eliminating the proposed bluestone patio behind the spa and lessen the width of the pool from 16' to 15' to lessen the variance. Attorney Terhune suggested the applicant think through and review the comments of the BZA.

The BZA Chair suggested going into Executive Session to discuss pending litigation.

The Building Inspector noted the fencing must be 2' off the property line and this was a concern of neighbor Anthony Skutnik. The applicant stated they will work with Karen Arent to appease neighbor Skutnik.

Neighbor Chris Huntington expressed he was the closest land owner and believes the Shumaker proposed project is a benefit and not a detriment. Karen Arent added, the applicant did mitigate the location, size and environmental impact and are letting go of the of the patio.

Attorney Terhune stated every property is unique, every variance is case by case and the Board must be consistent.

Chairman Lindsay made a motion to keep the Public Hearing open until the next meeting.

Member Pompan seconded the motion.

The vote of the Board was 4 – 0 in favor of the motion.

At 8:06 p.m., Chairman Lindsay made a motion to go into Executive Session. The motion was seconded by Member Hays.

The vote of the Board was 4 – 0 in favor of the motion.

Respectfully submitted,

Desiree Hickey

Recording Secretary