



# CITY OF AVON LAKE ZONING BOARD OF APPEALS

MAY 22, 2024  
COUNCIL CHAMBERS – 150 AVON BELDEN ROAD  
7:00 PM

## AGENDA

### VOTING ORDER:

Mr. Updegraff  
Mr. Renacci  
Ms. Slivinski  
Mr. Shook  
Ms. Merlone

#### A. ROLL CALL

Mr. Updegraff, Mr. Renacci, Ms. Slivinski, Mr. Shook, Ms. Merlone, Assistant Law Director Graves, and Planning & Zoning Manager Page.

#### B. APPROVAL OF THE APRIL 24, 2024, MEETING MINUTES

#### C. GENERAL CORRESPONDENCE/ANNOUNCEMENTS

#### D. COMMENTS FROM THE ASSISTANT LAW DIRECTOR

1. At the beginning of the meeting, the Assistant Law Director shall swear in anyone who has business before this board and will be giving testimony regarding any of the items on the agenda.
2. Please state your name and address before addressing the board.
3. All questions or comments must be addressed to the Chairman.

#### E. ADMINISTRATION OF OATH

#### F. NEW CASES

##### 1. CAV 24-20

James Imel requests an area variance to Planning & Zoning Code Section 1224.01 (e) *Accessory and Temporary Use Regulations – Accessory Uses and Structures* at 135 Berkshire Road (single-family residence).

AREA VARIANCE

WARD III

R-1C

*The applicant requests an in-ground swimming pool in the southernmost side yard.*

#### G. COMMENTS FROM THE AUDIENCE

**H. COMMENTS FROM BOARD MEMBERS**

**I. DISCUSSION**

**J. ADJOURN**

The next regular meeting of the Zoning Board of Appeals will be on June 26, 2024.

**MINUTES OF A MEETING OF THE  
AVON LAKE ZONING BOARD OF APPEALS  
HELD APRIL 24, 2024**

A regular meeting of the Avon Lake Zoning Board of Appeals was called to order on April 24, 2024 at 7:00 P.M. in Council Chambers with Acting Chairperson Slivinski presiding.

**ROLL CALL**

Present for roll call were Ms. Slivinski, Mr. Updegraff, Ms. Merlone, Mr. Renacci, Assistant Director of Law Graves, and Planning & Zoning Manager Page. Mr. Shook’s absence was excused.

**APPROVAL OF MINUTES**

The minutes of March 2024 were approved as amended.

**READING OF GENERAL CORESPONDENCE**

None

**COMMENTS FROM THE ASSISTANT DIRECTOR OF LAW**

Assistant Law Director Graves described the procedures to be followed in the conduct of the meeting. Mr. Graves noted that it is the applicant’s burden to establish what is called “practical difficulty” when seeking an area variance. In addition, all who testify are legally bound by any representations, in word or print, made to the Board.

**OATH ADMINISTERED**

As provided in Article IV (5)(a)(4) of the Zoning Board Rules, an oath was administered by the Assistant Director of Law to all members of the audience speaking at this meeting.

**TABLED CASES CAV 24-8 & CAV 24-9**

These cases were tabled at the March 27, 2024 meeting.

Ms. Merlone moved to untable these cases. Mr. Updegraff seconded the motion.

AYES: Renacci, Slivinski, Merlone, Updegraff

NAYES: None  
ABSENT: Shook

The applicants, Rodney and Karen Williams, asked that these cases be withdrawn.

Mr. Renacci moved to withdraw these cases. Mr. Updegraff seconded the motion.

AYES: Renacci, Slivinski, Merlone, Updegraff

NAYES: None  
ABSENT: Shook

**CASE CAV 24-16**  
**REQUEST FOR A VARIANCE AT 634 PARKSIDE DRIVE GRANTED**

Before this case could be heard, per ZBA Rules, Article 7, Section 2, the Board was required to decide if the changes to the plan were significantly amended from the plan proposed in Case CAV 24-5. The plan was changed so that the fence will not encroach into a utility easement as the applicant's February request did.

Mr. Updegraff moved that the case was significantly amended so that Case CAV 24-16 may be heard. Ms. Merlone seconded the motion.

AYES: Slivinski, Merlone, Updegraff

NAYES: Renacci

ABSENT: Shook

In Case CAV 24-16, the applicants and owners, Ryan and Amanda Uhle, requested an area variance to Code Section 1226.03 (d)(2) General Development Standards – *Fences and Walls in Residential Districts* at 634 Parkside Drive which is a corner lot.

The applicant proposed installing a 4 foot tall black ornamental aluminum fence enclosing the rear yard and encroaching 40 feet into the secondary front yard along Millside Lane.

Code permits a maximum fence height of 3 feet in front yards.

Mr. Uhle explained:

1. The fence plan has changed to be completely out of the utility easement.
2. A 4-foot high fence is needed to ensure the safety of his children and large dogs.
3. There is a great deal of vehicular traffic on the street.
4. The look of the fence will be minimized by landscaping he intends to install.

Upon inquiry, Mr. Uhle stated that there are no obstacles to keeping the fence solely in the rear yard, however it would make for a very small, usable yard. There is a play set that will need to be moved so that it is within the fenced area. The previous plan would have enclosed the playset without moving it.

Ms. Slivinski moved to grant the variance with the condition that landscaping be installed on the outside of the fence. The landscaping must cover a minimum of 40% of the fence height. Mr. Updegraff seconded the motion.

Ms. Slivinski stated that corner lots present a practical difficulty because they create a yard with very little rear yard space.

AYES: Slivinski, Merlone, Updegraff

NAYES: Renacci

ABSENT: Shook

**CASE CAV 24-17**

**REQUEST FOR A VARIANCE AT PPN 04-00-018-146-022 DENIED**

Rodney and Karen Williams, on behalf of Mark Peters and Holly Wilburn, requested an area variance to Code Section 1238 - *Subdivision Design Standards* at the undeveloped parcel 04-00-018-146-022, located at the southwest corner of Electric Blvd. (Electric) and Armour Road (Armour), which is a paper street. The applicants wish to construct a single-family dwelling on the parcel.

The applicants are responsible for their own utility and infrastructure extensions to serve their property. They requested that the requirement to extend utilities, sidewalks, and roadway to the southernmost edge of the property on Armour be waived.

Engineer Howard, City of Avon Lake (City), determined that the proposed development of this parcel triggers the requirement that public infrastructure improvements (i.e. roadway, sanitary & storm sewers, and water) be installed along Armour to the southern property line of the parcel at issue, as mandated by Code Sections 1238.02 and 1238.07(b).

Rob Monroe, Chief Utilities Executive with Avon Lake Regional Water, opposed the granting of the variance because it would create an undue hardship to the public utility and its ratepayers. It would also provide an unfair advantage to this applicant compared to other developers that have been required to install utilities.

Karen Williams spoke on behalf of the applicants and asserted:

1. The house will be a cottage style dwelling that will not disturb the nature of the park.
2. Without the waiver, Armour will be turned into an actual paved street that will attract drivers and change the nature of the park entrance.
3. The request is only for a variance from what would create great havoc.
4. The infrastructure requirement is for subdivisions and probably not intended for when only one parcel is at issue.
5. The Code does not require R-O-W improvements for Minor Subdivisions which have less than five parcels.
6. The City wants Armour developed yet have assigned an Electric address to the parcel and want the dwelling to front on Electric.
7. The City wants the applicants to pay for improvements to Armour, yet do not want the applicants to use Armour.
8. With regard to utilities, all but the sanitary sewer have already been installed for the Electric Blvd. address. She and Mr. Williams will bear the expense of installing the sanitary sewer, hence there is no financial hardship created for utility companies.
9. This property is unique because it is adjacent to a wooded park.
10. The physical disruption to entering the park would be immense and lengthy if Armour is developed, i.e. ditches dug, utilities installed, path torn up, road installed, etc.
11. Having an actual road instead of a path presents possible safety issues, i.e. vehicles parking on the road and turning around to exit onto Electric.
12. Other similarly situated paper streets have not been required to be developed.
13. Waiving the improvement requirement will not change the nature of the area, however, not granting the variance will because the park entrance will become an actual road.
14. The variance is not substantial.

Numerous Avon Lake residents spoke in opposition to granting this variance request. The history of how the park originated was explained. The joint efforts of Save the Woods (a resident, volunteer committee), Lorain County Metro Parks, the City of Avon Lake, and Herman “Bucky” Kopf created the Kopf Family Reservation park. These residents do not want this area developed for housing. A representative from Metro Parks concurred and stated that the Park had tried to purchase the parcel but it did not work out.

Holly Wilburn, daughter of the deceased owner of the parcel, stated that her mother had wanted to build a home on the lot but never did it. She added that her mother wanted the Williams to have the property and it was never her intent to sell it to the Metro Parks.

Ms. Williams stressed that this variance is not about receiving permission to build a dwelling. The owner of the property has the right to build. This request involves infrastructure on the street adjacent to the property. Mr. Williams explained that this will be a modest home that will be his wife’s forever-home when he passes away. They will not be removing more trees than is absolutely necessary.

Mr. Page stated that this is the first variance request involving a paper street under the current Code. Under the previous Code, there had been several, and decisions regarding the development of paper streets were split.

Mr. Renacci moved to deny the variance. Ms. Slivinski seconded the motion.

Mr. Renacci stated that the Board is beholden to apply a standard of practical difficulty. He cited two factors that prevent that finding: (1) waiving the infrastructure requirement may adversely affect the delivery of governmental services by creating land-locked parcels owned by other individuals; (2) there are no special conditions and circumstances peculiar to this land as defined in the Code.

AYES: Renacci, Slivinski, Merlone, Updegraff

NAYES: None  
ABSENT: Shook

**CASE CAV 24-18**  
**REQUEST FOR A VARIANCE AT 04-00-018-146-022 WITHDRAWN**

With the denial of the variance in case CAV 24-17, the applicants, Karen & Rodney Williams, decided to withdraw this request that sought to have a rear yard setback of 10 feet for the dwelling rather than the required 35 feet.

Mr. Updegraff moved to withdraw the case. Ms. Merlone seconded the motion.

AYES: Renacci, Slivinski, Merlone, Updegraff

NAYES: None  
ABSENT: Shook

**CASE CAV 24-19**

**REQUEST FOR A VARIANCE AT 33350 AMBLESIDE DRIVE GRANTED**

Josh Osterhout requested an area variance to Code Section 1220.03(a) *Planned Unit Developments (PUD) – Changes to Approved PUDs* at 33350 Ambleside Drive which is a corner lot.

The applicant is proposing an addition to the dwelling that will encroach 1.9 feet into the Ambleside Drive front yard setback at one corner of the addition.

This would reduce the front setback from the required 50 feet to 48.1 feet.

Mr. Osterhout explained:

1. The house is positioned so it is facing the intersection and not a street.
2. Being a corner lot there are 2 front setbacks, that in this case are not the same.
3. Because there are 2 front setbacks and the way the house is oriented, it leaves very limited options for constructing the addition within the setbacks.
4. This request is the realistic minimum as the addition will only be 13 feet wide.

Mr. Renacci moved to grant the variance. Mr. Updegraff seconded the motion.

Mr. Renacci stated that the practical difficulty standard is met due to the peculiar setbacks of the dwelling. He noted that this variance is minimally invasive.

AYES: Renacci, Slivinski, Merlone, Updegraff

NAYES: None

ABSENT: Shook

**COMMENTS FROM THE AUDIENCE**

Ms. Williams, considering the opposition to the development of PPN 04-00-018-146-022, asked who she should go to if this situation ever escalates in a negative way in the future. Mr. Graves advised that she call the police and/or a private attorney. Mr. Williams verified with the Board that they can build on the lot if the Armour improvements are made.

**COMMENTS FROM BOARD MEMBERS**

Ms. Slivinski will be unable to attend the May 22, 2024 meeting.

**ADJOURN**

Ms. Merlone moved to adjourn the meeting at 8:30 P.M. Mr. Updegraff seconded the motion.

AYES: Renacci, Slivinski, Merlone, Updegraff

NAYES: None

ABSENT: Shook



## REPORT – ZBA CASE 24-20

**TO:** Members, Zoning Board of Appeals

**FROM:** Austin Page, Planning & Zoning Manager

**SUBJECT:** CAV 24-20 (AREA VARIANCE – 135 Berkshire Road)

**MEETING:** May 22, 2024

James Imel requests an area variance to Planning & Zoning Code Section 1224.01 (e) *Accessory and Temporary Use Regulations – Accessory Uses and Structures* at 135 Berkshire Road (Single-family residence).

**DISCUSSION:**

135 Berkshire Road is a single-family residence located at the southeastern corner of the Electric Blvd and Berkshire Road intersection. The property is zoned R-1C, single-family residence. All surrounding properties share the same zoning, while the property across the street (north) is the Saint Joseph Catholic Church, and is zoned R-1A, single-family residence.

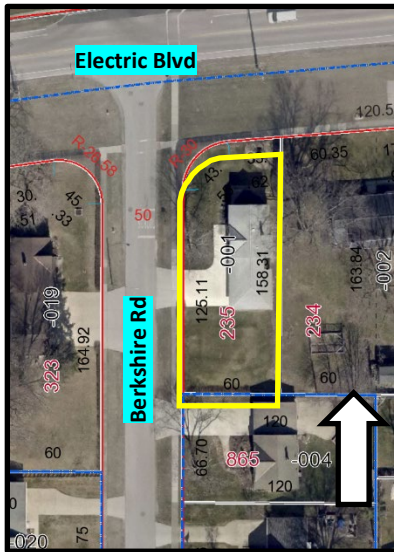


Figure 1: Lorain County Auditor GIS – Spring 2023

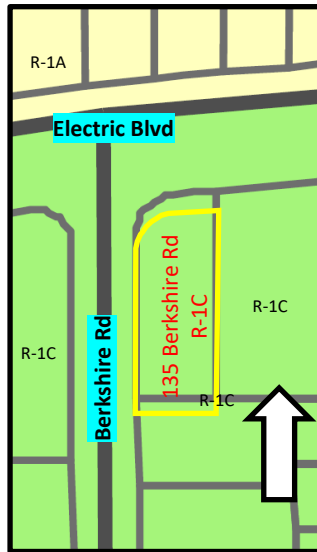


Figure 2: City of Avon Lake Zoning Map - 2022

The property is a corner lot with two front yards. The primary frontage is on Berkshire Road and the secondary frontage on Electric Blvd. Because the home fronts onto Berkshire Road, the rear yard is unusually small with a depth of 6'. This shallowness provides little-to-no-space for any type of accessory structure.

The applicant is proposing a 14'x28' in-ground swimming pool in the southernmost side yard of the property. The current Planning & Zoning Code only permits pools in the rear yard.

The proposed pool does not extend beyond the front of the home and adheres to all other applicable setback requirements (10' minimum). Pool equipment is only permitted in the rear yard is proposed to be located behind the southeast corner of the home, completely in the rear yard. Fencing is also required, and the applicant is proposing a 4' tall fence that adheres to the height requirement for pool fencing. It is unclear of the style of the fence but if the fence is to have any openings, they shall not be large enough for a 4-inch



diameter sphere to go through, as outlined in the Planning & Zoning Code. Fencing will be reviewed at permitting and not during this variance request.

All other code requirements regarding swimming pools have been met (as proposed) and no additional variances are required or included as part of this request. All applicable code sections have been included in the packet.

Below are two additional figures. Figure 3 is a site plan provided by the applicant and Figure 4 is a screen clipping from Google Street View, dated August 2023. These figures show the side yard location of the proposed in-ground pool.

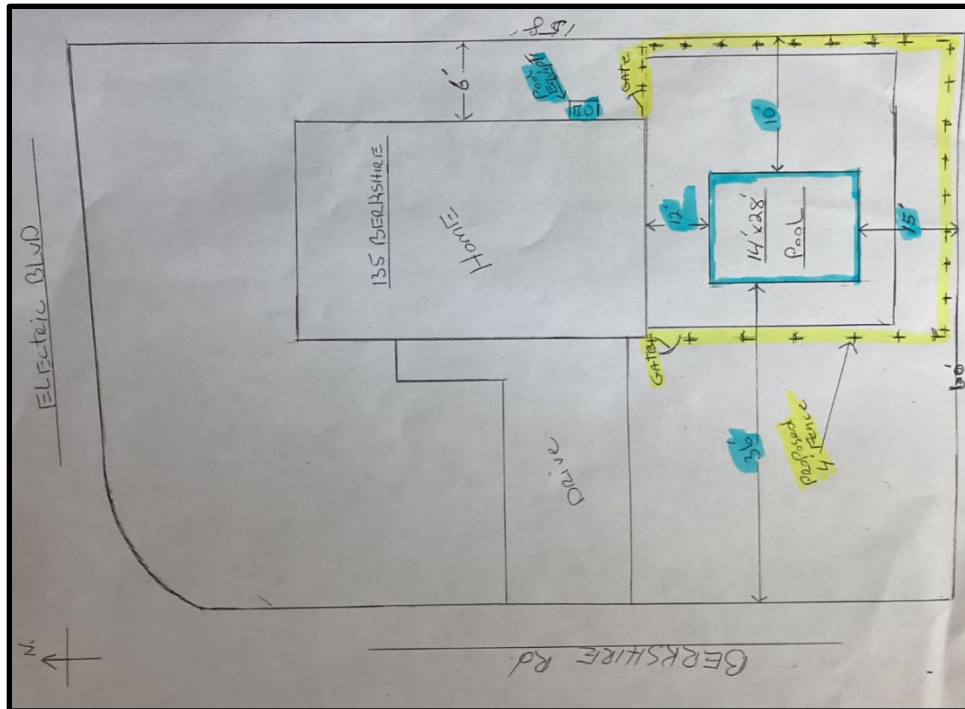


Figure 3: Applicant Provided Site Plan



Figure 4: Google Street View – August 2023

**VARIANCE REQUESTED:**

The applicant requests one area variance to Planning & Zoning Code Section 1224.01 (e) *Accessory and Temporary Use Regulations – Accessory Uses and Structures* at 135 Berkshire Road (Single-family residence). The request would permit a 14’x28’ in-ground swimming pool in the southernmost side yard.

**REVIEW AND RECOMMENDATION BY THE ZONING BOARD OF APPEALS (ZBA):**

The ZBA shall review the application, findings, testimony, etc. In reviewing the application, the ZBA shall at a minimum consider the review criteria of Planning & Zoning Code Section 1214.09 (c)(1) *Review Procedures – Variances*. The ZBA may request that the applicant supply additional information that the Board deems necessary to review and evaluate the request for a variance.

In making its decision, the ZBA may approve, approve modifications or supplementary conditions, or deny the application. Additionally, the ZBA shall make specific findings of fact based directly on the evidence presented that the reasons set forth in the application and as presented by the applicant during the public hearing. The ZBA shall justify the approval, approval with modifications or supplementary conditions, or denial of the variance application that will make possible a reasonable use of the land, building, or structure.

**POTENTIAL MOTION:**

The language set forth below is provided as a guide, with no intent to suggest specific action on the part of the Zoning Board of Appeals.

I move to approve/deny ZBA Application, CAV 24-20, an area variance to Planning & Zoning Code Section 1224.01 (e) *Accessory and Temporary Use Regulations – Accessory Uses and Structures*, permitting an in-ground swimming pool in the southernmost side yard, at 135 Berkshire Road.

Please state any conditions.

**ADDITIONAL INFORMATION:**

The applicant has supplied written responses to the Area Variance Review Criteria and a site plan. All of which can be found in the packet.

The Community Development Department sent notice of this request to all property owners within 300’ of 135 Berkshire Road.

If the area variance is granted, and prior to any construction, the applicant shall submit Residential Building Permit applications via the Avon Lake Open Gov Portal for review and approval. The Community Development Department is a step in the approval process and is responsible for confirming consistency with ZBA approval, structure(s) location, setbacks, building height(s), façade materials, etc.

**ATTACHMENTS:**

1. Copy of Code Section(s)
2. Aerial View of Property
3. Copy of ZBA Application
4. Copy of Site Plan

**TABLE 1224-3: PERMITTED ACCESSORY USES AND STRUCTURES**

Use Category and Use Type P = Permitted Use PS = Permitted Use with Standards C = Conditional Use	R-1A, R-1B, R-1C, and R-1D	R-2 and R-3	MUO	B-1, B-2, and B-3	I-1, and I-2	P-1	Yards Permitted F = Front S = Side R = Rear	Yard Coverage Calculation	Zoning Permit Required	Use-Specific Standards in Section:
Accessibility Ramps	PS	PS	PS	PS	PS	PS	F, S, or R	Not Included	Yes	<a href="#">1224.01(f)(1)</a>
Amateur Radio Towers and Antennae	PS	PS	PS	PS	PS	PS	S or R	Not Included	Yes	<a href="#">1224.01(f)(2)</a>
Basketball Hoops	PS	PS	PS	PS	PS	PS	F, S, or R	Not Included	No	<a href="#">1224.01(f)(3)</a>
Bike and Skateboard Ramps	PS	PS		PS		PS	R	Included	Yes	<a href="#">1224.01(f)(4)</a>
Detached Garages and Carports	PS	PS	PS	PS	PS	PS	R	Included	Yes	<a href="#">1224.01(f)(5)</a>
Detached Storage/Utility Sheds and other Detached Buildings	PS	PS	PS	PS	PS	PS	R	Included	Yes	<a href="#">1224.01(f)(6)</a>
Drive-Through Facility				PS	PS		See Section <a href="#">1224.01(f)(7)</a>	Not Included	Yes	<a href="#">1224.01(f)(7)</a>
Gazebos and Pergolas	P	P	P	P	P	P	R	Included	Yes	
Generators and HVAC Equipment	PS	PS	PS	PS	PS	PS	F, S, or R	Not Included	Yes	<a href="#">1224.01(f)(8)</a>
Home Occupations	PS	PS	PS				Not Applicable	Not Included	Yes	<a href="#">1224.01(f)(9)</a>
Nursery Schools or Day Care Centers (Children or Adults)	PS	PS	PS	PS	PS	PS	Not Applicable	Not Included	Yes	<a href="#">1224.01(f)(10)</a>
Outdoor Dining			PS	PS	PS		F, S, or R	Not Included	Yes	<a href="#">1224.01(f)(11)</a>
Outdoor Displays and Sales			PS	PS	PS		F, S, or R	Not Included	Yes	<a href="#">1224.01(f)(12)</a>
Outdoor Storage and Bulk Sales				PS	PS		R	Not Included	Yes	<a href="#">1224.01(f)(13)</a>
Outdoor Vending Machines and Drop-Off Boxes	PS	PS	PS	PS	PS	PS	F, S, or R	Not Included	No	<a href="#">1224.01(f)(14)</a>
Patios, Porches, and Decks	PS	PS	PS	PS	PS	PS	F, S, or R	Included	Yes	<a href="#">1224.01(f)(15)</a>
Playsets, Treehouses, and Trampolines	PS	PS	PS			PS	R	See Section <a href="#">1224.01(f)(16)</a> .	No	<a href="#">1224.01(f)(16)</a>
Renewable Energy Systems	See <a href="#">Chapter 1240: Renewable Energy Systems</a> .									
Retail Commercial Uses			PS	PS	PS		Not Applicable	Not Included	No	<a href="#">1224.01(f)(17)</a>
Satellite Dishes	PS	PS	PS	PS	PS	PS	Not Applicable	Not Included	No	<a href="#">1224.01(f)(18)</a>
Swimming Pools	PS	PS	PS	PS		PS	R	Included	Yes	<a href="#">1224.01(f)(19)</a>

**(19) Swimming Pools**

- A. Any constructed or manufactured pool, both permanent and temporary, not located within an enclosed building and which is used or intended to be used as a swimming pool in connection with residential dwellings and is available only to the residents and their private guests shall be classified as a private swimming pool and shall be regulated by this subsection. This includes community pools that are restricted to use by residents of a subdivision or residential development and their guests as well as outdoor pools that serve guests of a hotel or similar nonresidential use.
- B. For the purposes of this subsection, swimming pool shall include pools, spas and hot tubs and shall be defined as any in-ground, on-ground, or above-ground pool intended for swimming, wading or recreational bathing capable of containing in excess of two feet of water at its deepest point as determined by manufacturer's specifications.
- C. A swimming pool shall not exceed 54 inches in height, above ground, and shall comply with the setback requirements set forth in [Table 1224-2](#). Slides associated with pools shall be exempt from this height requirement.
- D. Usual and customary pool equipment and accessories (such as a pool deck a diving board or a filtration house), not exceeding five feet in height, shall only be located in the rear yard and shall be set back a minimum of three feet from all lot lines.
- E. All swimming pool construction and operation shall be in accordance with standards and regulations established by the Board of Health having jurisdiction within the City, the Building Code and any other governmental regulations governing the construction and operation of such facilities.
- F. Any outdoor swimming pool, as defined in this subsection, shall be surrounded by a barrier which shall comply with the following:
  - i. Every swimming pool shall be completely enclosed by a fence and/or structure of sturdy construction at least 48 inches in height, measured from the ground level at each point along the boundary of such enclosure. The enclosure may surround the pool area or the entire yard. The enclosure shall be of such design as to prevent young children from crawling or otherwise passing through, under or over such enclosure without the use of a ladder or other implement. Openings in the barrier shall not allow passage of a four-inch diameter sphere.
  - ii. Solid barriers which do not have openings, such as a masonry or stone wall, shall not contain indentations or protrusions except for normal construction tolerances and tooled masonry joints.
  - iii. Access gates into such enclosure shall be self-closing and have a self-latching device. The fence/barrier shall be equipped with at least one such access gate.
  - iv. Where an above-ground pool structure is used as a barrier or where the barrier is mounted on top of the pool structure and the means of access is a ladder or steps, then the ladder or steps shall be capable of being secured, locked or removed to prevent access.
  - v. The required barrier must be installed prior to filling the pool with water.
  - vi. Automatic pool covers are permitted but the barrier requirements of this section shall still apply.
  - vii. A spa or hot tub with a safety cover that complies with ASTM F 1346 shall be exempt from the provisions of this section.
- G. A zoning permit application for a pool shall contain either information that demonstrates a barrier is already in place or shall include the simultaneous application for fencing or barrier construction.

- H. If the proposed barrier utilizes fencing on the property line that is owned by the neighboring property owner, the pool owner shall be required to build or replace that length of the barrier if it is ever removed by the neighboring property owner.
- I. Proper drainage shall be provided to ensure that pool overflow does not affect adjacent properties.
- J. Lighting shall be shaded so as not to be a disturbance to adjacent properties.
- K. Any sound of motor or pumps in such manner as to disturb the peace, quiet and comfort of neighboring inhabitants shall be shielded to prevent such disturbances.

**(20) Tennis and Other Recreational Courts**

Outdoor tennis courts and courts for other sports, including basketball and racquetball, that are accessory to a residential or nonresidential use shall comply with the following requirements:

- A. Tennis courts or other full-size recreational courts shall only be permitted on lots with a minimum lot area of one acre.
- B. The court shall be set back a minimum of 10 feet from all lot lines.
- C. All fencing shall be subject to the fence regulations in Section [1226.03: Fences and Walls](#) except that fencing that surrounds a tennis or recreational court may exceed the maximum fence height of this code provided that the fencing is located adjacent to the edge of the court.
- D. Any lighting for the court shall not exceed 20 feet in height and shall be directed downward and only illuminate the court. All outdoor lighting shall comply with Section [1226.04: Outdoor Lighting](#).

**(21) Type B Family Day Care Home (1-6 Children)**

Type B family day care homes are permitted when accessory to any residential dwelling unit, regardless of the applicable residential zoning district.

**(22) Type A Family Day Care Home**

Type A family day care homes may only be considered for a conditional use on lots with a minimum lot size of 20,000 square feet.

**(23) Utility Structures**

- A. Utility structures shall be located to the rear of the lot, to the maximum extent feasible, or otherwise located to create the least amount of visibility.
- B. If the applicant demonstrates to the Code Administrator that the utility structure can only be located in a front yard, the structure shall be landscaped in a manner that will allow access to the unit but otherwise buffer the view of the structure. The applicant shall be required to provide a landscaping plan as part of the subject application.
- C. Utility structures in the I-1 and I-2 districts shall not be subject to this screening requirement.

**1224.02 Temporary Uses and Structures**

**(a) Purpose**

This section allows for the establishment of certain temporary uses and structures of limited duration, provided that such uses or structures do not negatively affect adjacent properties, and provided that such uses or events are discontinued upon the expiration of a set time period. Temporary uses and structures shall not involve the construction or alteration of any permanent building or structure.





May 14, 2024 2:45:10 PM

**Legend**

**Boundaries**

- - - Dashed Lot Line
- Sublot Line

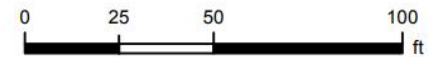
- Right-of-way Line
- Road Centerlines

- Subdivisions/...
- Right of Ways
- Parcels\_Black

- Red: Red
- Green: Green
- Blue: Blue
- Red: Red
- Green: Green
- Blue: Blue



1 inch = 47 feet





### CAV-24-20

Area Variance Application  
(ZBA)

Status: Active

Submitted On: 5/6/2024

### Primary Location

135 BERKSHIRE RD  
AVON LAKE, OH 44012

### Owner

IMEL MAURA TRUSTEE  
135 BERKSHIRE RD AVON  
LAKE, OH 44012

### Applicant

James Imel  
 216-309-4597  
 jamieimel@yahoo.com  
 135 Berkshire Rd  
Avon Lake, Ohio 44012

## Applicant Information

**Applicant Role\***

Father

**Name\***

James Imel

**Address\***

135 Berkshire Rd

**City\***

Avon Lake

**State\***

Ohio

**Zip\***

44012

**Telephone\***

2163094597

**Email Address\***

jamieimel@yahoo.com

## Property Owner Information

**Same as Applicant**

**Name\***

Judi Imel

**Address\***

135 Berkshire Rd

**City\***

Avon Lake

**State\***

Ohio

**Zip\***

44012

**Telephone\***

213094597

**Email Address\***

jamieimel@yahoo.com

## Request Information

 **Code Section(s)**

 **# of Variance Requested**


—

### Specific Details of Variance Request\*

We would like to install a pool in our side yard. Per the drawing submitted we don't have the room for a pool in the back yard.

## Signature

**Applicant Signature\***

 James Imel  
May 6, 2024



## Authorization for Property Access

Would you like to grant access to the city to enter your property?\*

Grant

Signature\*

James Imel

May 6, 2024

Any dog(s) on property?\*

No

Daytime Phone Number\*

2163094597

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## Factors Used to Determine Practical Difficulty of an Area Variance

**A. Whether special conditions and circumstances exist which are peculiar to the land or structure involved and which are not applicable generally to other lands or structures in the same zoning district. Examples of such special conditions or circumstances are exceptional irregularity, narrowness, shallowness or steepness of the lot, or proximity to non-conforming and inharmonious uses, structures or conditions;\***

We don't have the room in the back yard to install a pool.

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

There is no beneficial use of the property.

**C. Whether the variance is substantial and is the minimum necessary to make possible the reasonable use of the land or structures;\***

Yes. We can not install the pool with out the variance.

**D. 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;\***

Nothing would be altered.

**E. Whether the variance would adversely affect the delivery of governmental services such as water, sewer, trash pickup;\***

No services would be affected.

**F. Whether special conditions or circumstances exist as a result of actions of the applicant (actions of the applicant shall not include the purchase or acquisition of the property);\***

No special circumstances.

**G. Whether the property owner's predicament feasibly can be obviated through some method other than a variance;\***

There is no other option

**H. Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting a variance;\***

We would meet all the codes of the city.

**I. Whether the granting of the variance requested will confer on the applicant any special privilege that is denied by this regulation to other lands, structures, or buildings in the same district; and\***

No special privileges

**J. Whether a literal interpretation of the provisions of this code would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this code.\***

We have no back yard, so the side yard is our only option to install a pool.

**Is there anything else you would like the Community Development team to know?**

We feel because of our circumstances, the only option available to us is to receive the variance.

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## Attachments

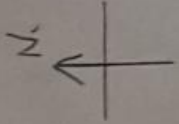


### **Plot Plan Drawn to Scale**

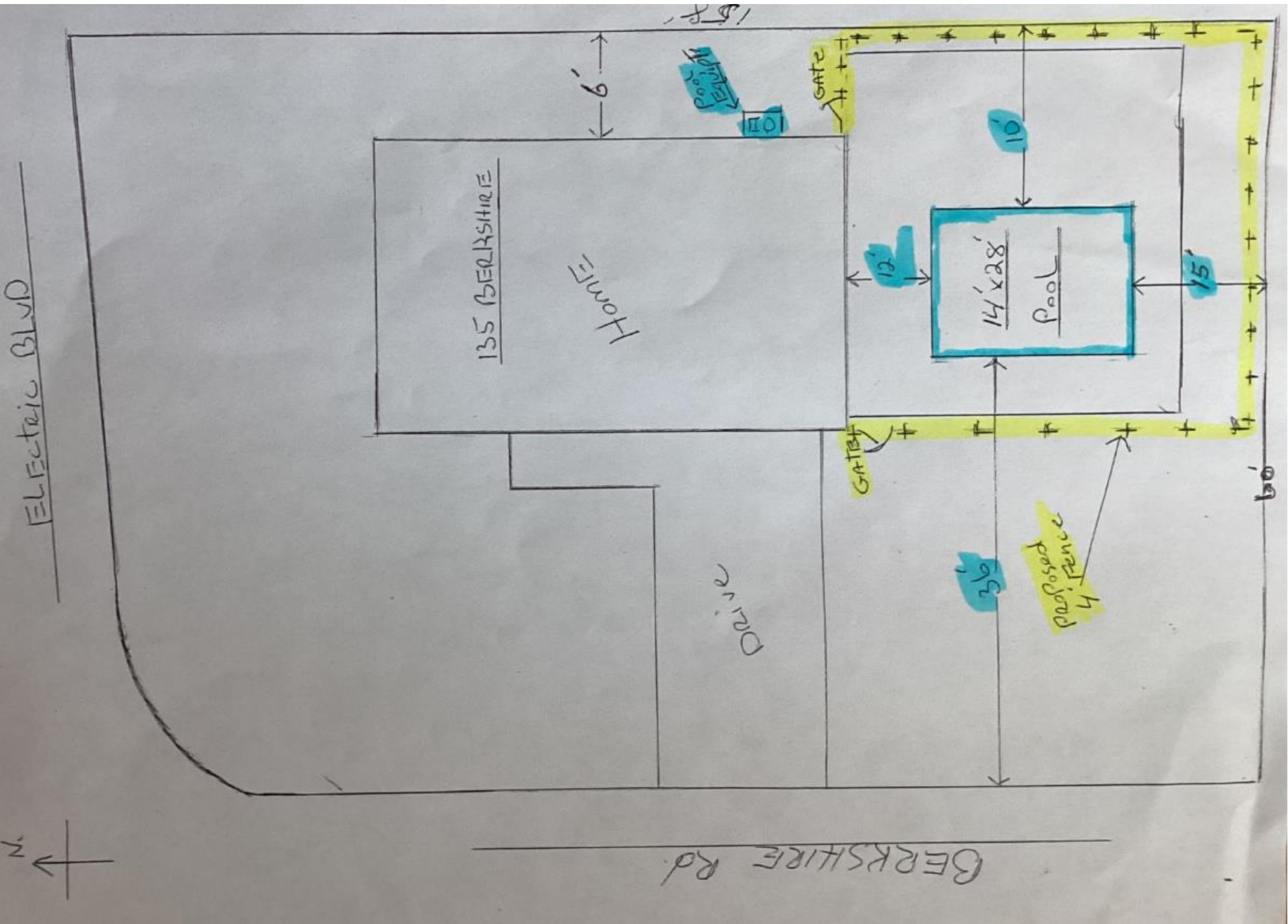
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Uploaded by James Imel on May 6, 2024 at 1:55 PM

**REQUIRED**



ELECTRIC BLVD



BERKSHIRE Rd.

135 BERKSHIRE

HOME

DRIVE

14' x 28'  
Pool

PROPOSED  
4' FENCE

POOL EQUIP

GATE

GATE

6'

10'

12'

15'

36'

60'