

**STAFF REPORT**

**CASE:** BZA05-2014

**APPLICANTS:** Derek Montgomery

**LOCATION:** 781 Carpenter Road  
Parcel L32000100140001800  
5.004 acres

**ZONED:** A-1 (Agricultural) District

**REQUEST:** The applicant is requesting an area/dimensional variance from Section 4.13 C. 6. (Table 4-6) of the Sugarcreek Township Zoning Resolution, to allow for an above ground pool to be constructed in the side yard.

**DATE:** May 22, 2014

**DESCRIPTION OF REQUEST**

**Property Location:** The subject property is 781 Carpenter Road located in the A-1 (Agricultural) District. The subject property, a 5.001 acre parcel, contains a 4236 SF single-family dwelling constructed in 2000. There are no other structures located on the parcel.

**Applicant Proposal:** The applicant is requesting approval to allow for an above ground pool to be constructed in the side yard.

**Zoning of Adjacent Parcels:** The parcels to the north (a 39.096 acre parcel in agricultural production), south (a 5.906 acre parcel in agricultural production and containing a barn), east (a 3.0 acre residential tract and a 14.215 acre parcel owned by P&R Communication containing a telecommunications tower and an associated building) and west (a 9.149 acre parcel owned by D P&L containing an electrical substation) are located in the A-1 (Agricultural) District.

**Subject Property:**



#### Applicable Articles and Findings of Fact:

- **Per Section 4.13 C. 6. (Table 4-6) Permitted Accessory Uses and Structures private swimming pools are only permitted in the rear yard.**
  - The applicant is requesting a variance to allow for a proposed 706.5 SF above ground pool to be located in the side yard of the subject property. The pool is proposed to be located off the existing deck behind the main portion of the home, but to the side of the home's rear section.
- The applicant's request is for an area/dimensional variance.
- Area/dimensional variances are subject to the standards established below pursuant to Section 3.07 (D)(1):

#### *1. Area/Dimensional Variances*

- a. The following factors shall be considered and weighed by the BZA to determine if a practical difficulty exists that would justify an area/dimensional variance:*

- 1) *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 adjacency to nonconforming and inharmonious uses, structures or conditions;*
  - 2) *Whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property without the variance;*
  - 3) *Whether the variance is substantial and is the minimum necessary to make possible the reasonable use of the land or structures;*
  - 4) *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;*
  - 5) *Whether the variance would adversely affect the delivery of governmental services such as water, sewer, trash pickup;*
  - 6) *Whether special conditions or circumstances exist as a result of actions of the owner;*
  - 7) *Whether the property owner's predicament can feasibly be obviated through some method other than a variance;*
  - 8) *Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting a variance; and*
  - 9) *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.*
- The applicant has submitted statements relative to the foregoing standards.
    - b. *Decisions should take into consideration all applicable factors, however, not all factors may necessarily apply to a particular case. No single factor shall control.*

**Staff Comments:**

The home on the lot is uniquely situated in that the deck area comes off the home's main section, but it does not extend into the rear yard. The home is of such a design and placed on the lot in such a way as to result in an atypically large side yard area. The BZA will need to determine, based on the standards specified above, whether a practical difficulty exists necessitating the issuance of the requested variance.

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Cara K. Tilford, AICP  
Director of Planning and Zoning