

**Village of Skaneateles**  
**Zoning Board of Appeals Public Hearing**  
**July 28, 2009**

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In the matter of the application submitted by Christopher and Catherine Pinckney to vary the strict application of Section 225-A5, Density Control Schedule, for percentage of open area, and Section 225-14(d) Swimming pools, 25ft distance to lot lines, to install an in-ground swimming pool and surrounds in the rear yard located at 39 Academy Street in the Village of Skaneateles.

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Present: Lisa Banuski, Chairman  
Larry Pardee, Member  
Lee Buttolph, Member  
Craig Phinney, Member  
John Crompton, Member

Jorge Battle, Clerk to the Zoning Board of Appeals  
Ricardo Galbato, Attorney for the Zoning Board of Appeals

Andrew Ramsgard, Architect for the applicants  
Chris Pinckney, Applicant

Doug Clark, West Lake Street  
David Robinson, 33 Academy Street

Chairman Banuski opened the public hearing announcing the application of Christopher and Catherine Pinckney of 39 Academy Street.

Andrew Ramsgard, Architect for the applicants made the presentation. He said, "some of you may remember a couple of years back – 2 years – we came in for a variance to tear down a portion of the house which was rebuilt - in the back. We did receive a pre-existing side yard variance for the existing set-back and extending it back. What we are proposing to do now - place a pool directly off the and within sight of the kitchen area and patio area, which provides for safety. There should be a copy in your file of a letter that Chris and Cathy wrote basically explaining the safety issue and lot shape for placing the pool here versus the back yard, where you could avoid the side yard variances. We still would have the lot coverage issue to deal with. But we could at least eliminate those.

The have had conversations with both the Gaffneys, which are on the west, and the Lynn-Fords on the east side. They are both adjacent side yard neighbors had submitted a letter saying that they have reviewed the plans for the Pinckneys and support them for the pool." The Chairman said, "we will get that read into the record." Ramsgard said, "those are both dated June 23<sup>rd</sup>, 2009. If you don't have copies of that, I've got copies. So, this is a photograph showing the existing condition and the proposed location of the pool. It's approximately 16 by 32, kidney shaped pool. The side yard set-back is to the apron of the pool, not to the edge of the pool. They

are proposing to extend the fence along that side of the property as well as have a continuous fence all around the property. It's required in the New York State Code for the pool."

Chairman Banuski said, "I don't see the fence on the drawing." Ramsgard said, "the fence that would be added along on the west side." The Chairman said, "it just matches the privacy fence." Ramsgard continued, "then all across the back there is a fence that goes across the back which they would connect up to. Then it would come back around. We didn't draw the fence on the plan." The Chairman asked the type of the fence? Ramsgard said, "it has to be like a chain link type fence, but doesn't have to be chain link. But you can't have more than 2 inch toe-holds allowed. You can't be something that's easy to climb over. So, that has to go round it. The plan would be to connect it up to the back fence and come across the back and the driveway and connect into the garage." The Chairman said, "so enough to fence off the pool within the back yard."

Member Crompt asked, "how much thought went into moving that pool back because we all know in the Village how intrusive pools are as far as lighting and noise?" Ramsgard said, "that's why Chris and Cathy both talked to the neighbors because that is really the issue." Chris Pinckney said, "part of it is certainly – we wanted it not only where it was easy to see without the garage covering up. If we were in the kitchen, obviously someone has to be there if the kids are in the pool. We wanted to be able to have a good sight line of the pool from the house area, patio area. In addition because it is there because of the garage, I can't imagine that there's any way you are going to be able to see that from the road, which gives it a little more privacy. I don't think it would detract from the look or anything like that because you wouldn't see any difference from, if anyone was on the road here. If it was back here, I don't know how much that's really going to change the noise issue from this house or this house. I'm not actually sure if my kids can actually be louder than they are now." Member Crompt said, "you are going to have neighbors over here. You are going to have friends over. They are going to have friends over and I think that's been one of the issues of swimming pools in the Village – it is noise and lights. Your neighbors may not live there – they may sell the house in 2 years. How are the neighbors that move in going to feel about it too?" Chairman Banuski said, "the Gaffneys now are not there for the summer. They have a camp down the Lake, so it is easy for them to sign off on it, and it's a foot off their property line. That's like an 80% variance on this. It's a big one. I also understand the sight line issues, although having 2 sisters with swimming pools, I can tell you the sister whose swimming pool is not in her sight line is a lot happier than the one who's looking at her covered pool all winter long."

Member Phinney said, "I also have a problem with the location." Member Pardee said, "and me too." The Chairman said, "this is a big lot with a lot to work with." Member Phinney said, "that's a problem for me." Pinckney asked, "where would it work for you?" Member Phinney said, "something more centrally located between the property lines, so that you are literally not right on the property line- for the noise. I do understand the safety issues. I understand the view part. But for me, it's far less intrusive and I don't consider it a sight line problem so much as it is a noise and light problem." The Chairman said, "and if you go farther back it takes it away from the Gaffney's patio which is literally right across the driveway there. Where that's their place to sit out and enjoy an evening or a dinner or a morning cup of coffee. If

it was farther back, it's farther away from their house, farther away from their patio." Member Phinney said, "plus your kids are young now. Aren't they five-six, the twins?" Pinckney said, "they are about to be eight." Member Phinney said, "with that too, certainly the safety issue is my guess is they both know how to swim?" Pinckney said, "yes." Member Phinney continued, "at this point too, so that certainly I understand the safety issue. But I think as they grow older it becomes more a noise-light issue than it is a safety issue necessarily, God forbid. But in that kind of a set-up for sure. They don't want you watching them in another couple of years, they will want to have some privacy in the back," The Chairman said, "that's when you want to watch them." Member Crompt said, "that was a good point, Craig."

The Chairman asked the Board if they had any other comments? Member Buttolph said, "my comment on it is with the neighbors and them may not liking it – maybe it is just them just being nice and not wanting to cause a row, and sure, great, put a pool back there. But if they are signing off on it, they are also kind of signing off on the fact that their property value may be hurt when they go to sell it in 2 years. They are going to have to sell it to somebody who's going to have that pool back there, who's going to be not as sympathetic. In essence signing off on living next to a place with a pool but it's one of those things where they are just saying oh, sure yes, put it back there because they are nice folks and they don't want to have this come between neighbors. That's kind of my kind of take. On the flip side to it, is that if the neighbors are signing off on it they are in essence signing off on their property value being devalued, if this is a devaluing incident."

Ramsgard said, "concerning the size lot that the property has, if we can maybe just talk about just the coverage issue. Maybe there is another location that we can come up with for the pool. We can go back and re-look at that." Member Phinney said, "I don't have as much an issue with the coverage as I do the location. For me it is not the coverage scenario." Chairman Banuski said, "that variance is a pretty realistic variance for the kind of coverage we see in that neighborhood. I really don't think for us that it's a coverage issue as much as it is – just the massive percentage variance – to put it right on the property line like that is – I hate to think of a precedent being set when they say well, we want to put our pool here. It's not a 10 foot set-back required. It's 25 feet and that 25 feet was done for a reason, to protect the neighbors from noise and lights. With a family you have to light it. Let's open up the public hearing for comments. Is there anyone here who would like to speak in favor of this application?"

David Robinson, 33 Academy Street said, "we have nothing against the pool. That's fine. Our issue is the coverage because we are 3 houses down and after the Hawkins put in their patio and their Koi pond, we get flooding. Every time it rains, the water comes down the driveway, over the driveway and into our yard. We have storm boxes that catch most of it. It comes against the house and have to put the stuff up to keep it out. When that variance was granted, they were supposed to put a curb along the driveway. They never put the curb along the driveway, so the water comes over. Our only concern is if the coverage is it going to cause more drainage with us." Chairman Banuski said, "actually it is considered coverage as it is not open space anymore. But a swimming pool is a little bit different than say a patio or driveway in that unless it was a rainstorm of 4 inches or so, that it really isn't - it doesn't add to drainage issues too much." Robinson said, "I agree with that. But the Koi pond is kind of like a pool, isn't it?" The Chairman said, "right, but I'm pretty sure that the Koi pond is not – you get flooding from

the pond or the pavement that's back there?" Robinson said, "it comes from the Koi pond. Water, when we get a pretty good rain, it was terrible this summer, you can see it come right down and it hits the driveway where they did all the repaving and just comes right down into our yard. So, our concern is if they put it in that something be done. If we have more water, we are going to be in an awful mess." Member Phinney asked, "is this something that can be considered in the construction too?" Robinsons said, "yes. I think it is something that they could control. That's what I'm saying." Member Buttolph asked, "where are you on the street?" Robinson said, "down the hill, everything is down."

The Chairman asked if there was anyone else who would like to speak? No one spoke. The Chairman asked Member Phinney to rear the letters into the record. Member Phinney said, "*dated June 23, 2009 – Zoning Board of Appeals – Re: Christopher and Catherine Pinckney's pool – We have reviewed the plans for the Pinckney's pool and have no objections to this application. Joe Gaffney, 37 Academy Street, dated 6-24-09. Regarding Christopher and Catherine Pinckney's pool – We have reviewed the plans for the Pinckney's pool and have no objections to this application. Patricia A. Lynn-Ford, 41 Academy Street, June 24, 2009.*"

The Chairman asked if there were any other comments? I will move that we close the public hearing." Seconded by Member Crompt. Attorney Galbato said, "they are going to have to come back with a revised plan. Do you want to leave the public hearing open?" Ramsgard said, "Chris and I were just talking. If we remove the request for the side yard variance, and just deal with lot coverage variance - if that met with the Board's approval, then we could redesign and place it centrally located in the back of the lot that wouldn't require a variance for the side yards – to allow us to go forward with the proposal, and wouldn't require an additional variance." The Chairman said, "the only thing that I think would be a stumbling block for that is, where it's located right now – the Lynn-Fords signed off and is pretty much protected for their property by the garage. I'm assuming that – I can't assume that they will also not have a problem with it. But I would not anticipate them having a problem with it. But they should be given certainly the opportunity to look at it. I know that we have a short season and that we are losing our season."

Member Crompt said, "they may want to see some sort of revision." The Chairman said, "I can't say yes, go ahead and put it centrally located where you don't need the variance. I will say that the coverage issue, the drainage issue notwithstanding, is not an obstacle for me. And from the sounds of it, it is not an obstacle for most of us sitting here. So, for us, what we see as the biggest problem is the location on the lot line. I wish there was an easy answer for it, but I can't tell you that the adjacent neighbors won't." Member Crompt said, "hopefully the farther back it gets pushed, maybe it won't be as bad, the drainage issues coming down to the neighbors." Ramsgard said, "I don't know what happens with the adjacent neighbors and how the Koi ponds work, but pool is designed ..." "...to really absorb a lot of rainfall before it's an issue. We have had a lot of rain," said the Chairman. Ramsgard asked to have this issue tabled. The Chairman said, "that might be better to come back with an amendment rather than start the whole process over. A modification to move it would be a reduction." Galbato said, "then keep the public hearing open." The Chairman said, "**I move we table this application to August 25<sup>th</sup> meeting.**" Seconded by Member Phinney. The vote was 5-0 in favor of the motion. The meeting was adjourned at 7:47pm

email - ZBA, Galbato, Ramsgard