



**BOARD OF ZONING APPEALS / PROPERTY  
REVIEW COMMISSION MEETING AGENDA  
Tuesday, March 19, 2024 at 6:30 PM**

15 East Franklin Street Bellbrook, Ohio 45305  
T (937) 848-4666 | [www.cityofbellbrook.org](http://www.cityofbellbrook.org)

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1. **CALL TO ORDER**
2. **ROLL CALL**
3. **APPROVAL OF THE MINUTES**
  - A. Approval of the Minutes from the February 20, 2024, BZA/PRC Meeting
4. **OLD BUSINESS**
5. **NEW BUSINESS**
  - A. BZA 24-01: 1912 Sugar Maple Place. A variance request of Zoning Code Section 18.05B to allow the construction of a swimming pool with a four-foot fence and automatic pool cover.
6. **OPEN DISCUSSION**
7. **AJOURNMENT**

# RECORD OF PROCEEDINGS

Bellbrook Board of Zoning Appeals & Property Review Commission  
February 20, 2024

Item A. Section 3, Item

## 1. CALL TO ORDER

Mr. Ogrod called the meeting of the Bellbrook Board of Zoning Appeals & Property Review Commission to order at 6:30pm

## 2. ROLL CALL

### PRESENT

Mr. Kyle Boehmer  
Mrs. Meredith Brinegar  
Mr. Philip Ogrod

### ABSENT

Mrs. Sharon Schroder

## 3. APPROVAL OF THE MINUTES

A. Approval of the Minutes from the October 17, 2023, BZA/PRC Meeting

Mr. Ogrod asked if anyone had comments or corrections to the minutes of the October 17, 2023 meeting. Hearing none, the minutes were declared to be approved.

## 4. OLD BUSINESS

None

## 5. NEW BUSINESS

A. Nomination and Selection of Chair Person

Mr. Ogrod opened the Floor to nominations for Chair of the Board.

Mr. Boehmer nominated Mr. Ogrod for Chair, Seconded by Mrs. Brinegar

Hearing no additional nominations, Mr. Ogrod closed the floor.

Motion to appoint Mr. Ogrod as Chair of the Board of Zoning Appeals/Property Review Commission.

Motion made by Mrs. Brinegar, Seconded by Mr. Boehmer.

Voting Yea: Mr. Boehmer, Mrs. Brinegar, Mr. Ogrod

B. Nomination and Selection of Vice Chair Person

Mr. Ogrod opened the Floor to nominations for Vice Chair of the Board.

Mr. Boehmer nominated Mrs. Brinegar for Vice Chair, Seconded by Mr. Ogrod.

# RECORD OF PROCEEDINGS

Bellbrook Board of Zoning Appeals & Property Review Commission  
February 20, 2024

Item A. Section 3, Item

Motion to appoint Mrs. Brinegar to Vice Chair of the Board of Zoning Appeals/Property Review Commission.

Motion made by Mr. Ogrod, Seconded by Mr. Boehmer.

Voting Yea: Mr. Boehmer, Mrs. Brinegar, Mr. Ogrod

## 6. OPEN DISCUSSION

Mr. Foster provided a brief update on 85 S. Main Street, noting the previous violations have been corrected.

Mr. Ogrod commented about the MVRPC annual planning and zoning conference noting it was beneficial and well worth attending.

Mrs. Brinegar inquired about the recent assessments for abatements passed at City Council and asked for a review of those. Mr. Foster explained the assessments were for unpaid assessments and delinquent utility accounts. If the cost of abatements were not paid by the property owner, the costs are assessed on the property tax. Mr. Schommer noted the process has not been used frequently in the past; however abatements are now used for resolving the violations to restore the health and safety issues and quality of life.

Mr. Ogrod asked about the recently passed Rules of Council, inquiring if the same rules applied to Boards. Mr. Schommer noted it would be appropriate to have the Board pass the same or similar rules at a future meeting.

## 7. ADJOURNMENT

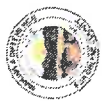
Hearing no further business coming before the Board, Mr. Ogrod declared the meeting adjourned at 6:49 pm

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Philip Ogrod, Chair Person

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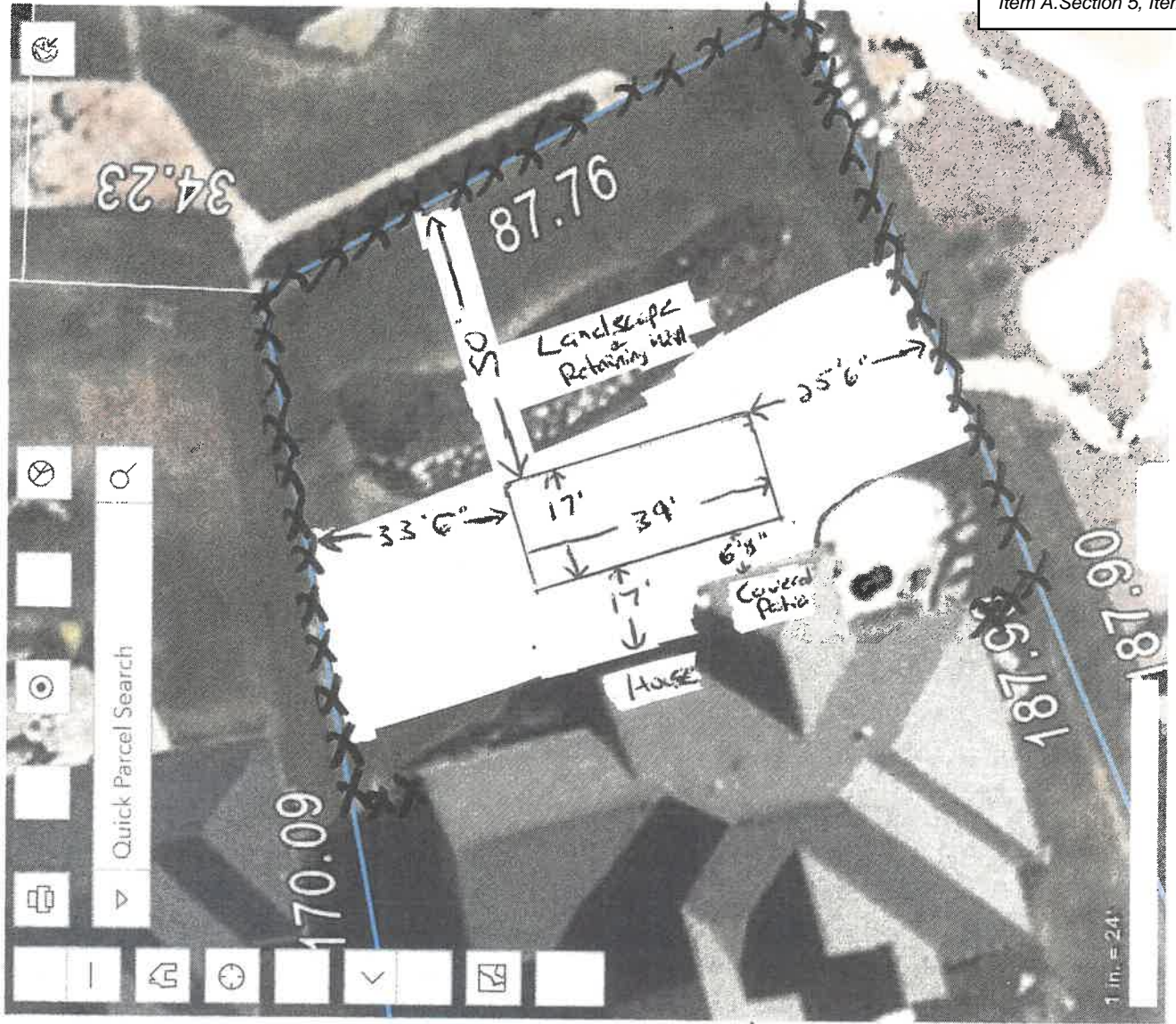
Rob Schommer, Clerk of Council



Feature Information

Property Info Building Info Deed Info Permit Info

**PARCEL ID:** [L35000100030014000](#)  
**OWNER(S):** NAGY SCOTT & JAMIE  
**PROPERTY ADDR:** 1912 SUGAR MAPLE PL  
**MAILING ADDR:** 1912 SUGAR MAPLE PL  
 BELLBROOK OH 45305  
**LEGAL DESC:** HIGHVIEW TERRACE SEC TWO REPLAT  
 LOT 22A 0.443AC  
 SUGAR MAPLE PL  
**CLASS:** RESIDENTIAL  
**LAND USE:** 510  
**ACRES:** 0.4430  
**APPRAISED LAND:** "XXX"  
**APPRAISED BLDG:** Existing 4'  
**APPRAISED TOTAL:** Aluminum fence  
**ASSESSED TOTAL:** Seizing backyard.  
**TOTAL TAXES:**  
**TAXES OWED:**  
**DELINQUENT TAXES:** \$0.00  
**SALE DATE:** 05/04/17  
**SALE PRICE:**  
**DEED REFERENCE:** [2017007104](#)  
**PLAT NAME:** HIGHVIEW TERRACE S2 RPLT L 22-27  
**PLAT CAB/PG:** [38.7 209A-B](#)  
**PLAT BOOK/PG:** N/A  
**SURVEY RECORD:** N/A  
**NEIGHBORHOOD:** 00142016  
**ZONING:** N/A



- a) Scott and Jamie Nagy, 1912 Sugar Maple Place, Bellbrook, OH 45305  
 Scott: 937-304-9426  
 Jamie: 605-695-0707
- b) Insert “Legal description of property; and a site plan based on an accurate survey showing existing and/or future building locations and the locations of building on adjacent properties. This site should be prepared by a registered surveyor attesting to the accuracy of same”
- c) The nature of our variance request centers around adding a swimming pool to our property. We request a variance that allows an auto-cover (that meets all the ASTM requirements) over our pool as an approved additional horizontal barrier--in conjunction with our existing vertical four-foot fence to meet zoning requirements.
- d) Without the variance, we would have to tear down and remove our current four-foot fence only to replace it with a new one—one-foot taller. Doing this seems much less practical, labor intensive, and quite expensive; by installing the auto-cover as an added horizontal barrier to the vertical barrier we already have, we can avoid unnecessary labor and cost.
- 1) An auto-cover proves very safe (as it meets all the ASTM requirements), has an attractive appearance, and improves the value of the pool as a desired feature. Many communities surrounding Bellbrook have already reduced the required fence heights or eliminated fence requirements when auto-covers that meet the ASTM safety requirements are used on swimming pools.
  - 2) The variance we request is substantial to us, as it involves sparing us thousands of dollars going toward destroying and re-installing the fence we already paid for and had installed.
  - 3) The essential character of the neighborhood would not be substantially altered by this variance; and adjoining properties would suffer a substantial detriment during the project--should we have to completely uproot our existing fence, bordering their properties.
  - 4) The variance would not adversely affect the delivery of governmental services such as water, sanitary, sewer or garbage removal.
  - 5) As we did not imagine adding a pool to our backyard when we first purchased the property in 2016, we were not aware of any fencing ordinances that would affect us until now.
  - 6) While our predicament of needing a five-foot fence for our backyard could be solved in another way than this request for a variance, we refer again to “d)” for this answer—that without the variance, we would encounter unnecessary and troublesome labor and expense.
- 7) The spirit and intent behind the zoning requirement would be observed, as we would have two barriers rather than just one: both a horizontal and a vertical barrier. We stand in complete agreement with the spirit and intent of the zoning requirement to protect our neighbors. Substantial justice would be done towards us by saving us thousands of dollar and the stress of unnecessary work and expense—and by recognizing our desire to not dismiss the zoning requirement, but to meet it in an alternative manner.

**To: City of Bellbrook**

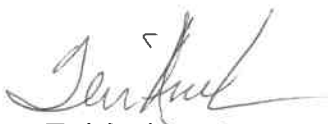
**From: Kent and Teri Anderson**  
1903 Sugar Maple Place  
Bellbrook, Ohio 45305

We are residents of Highview Terrace in the city of Bellbrook. Our neighbors, Scott and Jamie Nagy, are submitting a request to the city for a variance regarding the Barriers for a swimming pool. The Nagy's already have a vertical barrier (a four foot fence around their yard) and intend to top their swimming pool with a horizontal auto-cover barrier. The additional horizontal barrier, has been approved by the American Society of Testing and Materials, to meet all safety requirements. Please except this letter as a representation of our support for and our agreement with their request.

Kindly,



Kent Anderson



Teri Anderson

Monday, February 26, 2024 at 08:16:41 Eastern Standard Time

**Subject:** From Jason and Molly DeWeese

**Date:** Sunday, February 25, 2024 at 9:41:41 PM Eastern Standard Time

**From:** Jamie Nagy

**To:** Nagy, Scott

**CAUTION: This Message Is From an External Sender**

Exercise caution when opening attachments or clicking links.

Dear City of Bellbrook,

Scott and Jamie Nagy are our neighbors. We understand they are requesting a variance regarding barriers for swimming pools. The Nagy's already have a fence that is 4 ft and through talking with them, they plan to add an automatic pool cover. By adding the automatic cover, the Nagy family will be providing both a vertical (fence) and horizontal barrier. We also have a pool and are very familiar with the power of these auto covers. They have provided us comfort and security as we have 4 children, one with special needs who does not have the ability to swim but is often attracted to the water. These covers meet all safety requirements for the American Society for Testing and Materials. Please accept this letter as a representation of our support for and our agreement with their request.

Sincerely,

Jason and Molly DeWeese

3627 River Birch Dr

Bellbrook, Ohio 45305

Monday, February 26, 2024 at 08:17:15 Eastern Standard Time

**Subject:** Fwd: fence  
**Date:** Sunday, February 25, 2024 at 8:42:25 PM Eastern Standard Time  
**From:** Jamie Nagy  
**To:** Nagy, Scott

**CAUTION: This Message Is From an External Sender**

Exercise caution when opening attachments or clicking links.

Sent from my iPhone

Begin forwarded message:

**From:** Gina Atchison <[gina.atchison@yahoo.com](mailto:gina.atchison@yahoo.com)>  
**Date:** February 25, 2024 at 7:31:12 PM CST  
**To:** [nagyfam7@gmail.com](mailto:nagyfam7@gmail.com)  
**Subject:** fence

City of Bellbrook,

Thank you for your time in reading and accepting our submission in support of the variance request that our neighbors, Scott and Jamie Nagy are making. We have talked to them, and we understand that they wish to keep the four-foot fence they have already put up around their home as a vertical barrier to the swimming pool; and they plan to install an auto-cover on top of the swimming pool as a horizontal barrier. We understand the auto-cover is strong enough to hold an automobile. We are in support of their plans.

Joshua and Gina Atchison



**1128.07 SWIMMING POOLS.**

All pools and pool equipment shall be installed and utilized in accordance with its listing and labeling; and shall be assembled, erected, operated, and maintained as directed in the manufacturer's installation instructions.

- (a) Any swimming pool as defined by Section 1133.02 shall be subject to the standards of this subsection including pools that are designed to be temporary in nature.
- (1) Swimming pools that are enclosed within a building shall not be subject to these standards.
  - (2) The swimming pool shall be set back a minimum of ten feet from all lot lines and five feet from all principal and accessory buildings as measured from the edge of the water.
  - (3) The swimming pool, or the entire property on which it is located, shall be walled or fenced to prevent uncontrolled access. Said fence or wall shall not be less than four feet in height and maintained in good condition with a gate and lock with the following modifications.
    - A. Such fence shall be constructed so as to have no openings, holes, or gaps larger than three inches in any dimension, except for doors or gates. An accessory building may be used in or as part of such enclosure.
    - B. Above-ground pools that have a vertical surface of at least four feet in height shall be required to have fences, locking gates or other approved barriers only where access is made to the pool.
- (b) Prior to erecting and utilizing, swimming pools exceeding minimum thresholds shall require a zoning permit as indicated in Section 1132.02 (c)(3).
- (c) Any pool for the use of occupants of multi-family dwellings containing over three apartments or those that are accessory to a nonresidential use shall meet the structural and sanitary requirements of the Ohio Department of Health.

(Ord. 21-19. Passed 4-1-19.)

(Ord. 09-21, passed 7-27-09; Am. Ord. 10-12, passed 9-13-10; Am. Ord. 12-02, passed 2-13-12; Am. Ord. 20-16, passed 8-10-20)

### § 158.119 DRIVE-THRU SERVICE ESTABLISHMENTS.

(A) *Stacking of vehicles required for specific establishments.* Establishments that by their nature create periodic lining up of customers in automobiles waiting to be served shall provide off-street areas for these waiting customers. These include but are not limited to such activities as:

- Vehicle gasoline pumps
- Drive-in banks
- Drive-thru and Restaurants' drive-thru lanes
- Drive-in retail outlets
- Drive-in service and repair drop stations for such items as clothing, appliances, equipment, and the like
- Automatic auto washes

(B) *Spaces required.* Those establishments that can normally serve their customers in three minutes or less shall provide at least five off-street waiting spaces from first drive-in point of service. An automatic vehicle wash shall provide at least ten off-street spaces. Where normal customer servicing time is greater than three minutes per car, additional spaces shall be provided on the basis of one additional space per additional minute of waiting time.

(C) *Additional Stacking.* The Planning and Development Director reserves the right to require additional off street waiting spaces if a drive-thru line has the potential to block traffic on any public street.

(Ord. 09-21, passed 7-27-09)

### § 158.120 BARRIERS TO ENCROACHMENT BY VEHICLES.

Any lot used for parking, storage or display of vehicles for sale or rent, including boats, trailers, recreational vehicles or trucks, where such use is permitted to come within three feet of any property line separating the lot from any property held by any other ownership including public land, shall be protected from encroachment by the installation of wheel stops, bumper guards or fencing so placed and erected as to prevent vehicles from projecting over the lines except at approved points of ingress and egress.

(Ord. 09-21, passed 7-27-09)

### § 158.121 SWIMMING POOLS AND PONDS.

(A) *Private swimming pools.* No private swimming pool, excluding permanent or temporary swimming pools with a diameter less than 12 feet or with an area of less than 100 square feet, shall be allowed in any commercial or residential district, except as an accessory use and unless it complies with the following conditions and requirements:

- (1) The pool is intended and is to be used solely for the enjoyment of the occupants of the property on which it is located and their guests.

(2) It may not be located closer than ten feet to any property line including decking (excluding a concrete/paver patio/apron for an in-ground pool, which may go up to the property line).

(3) Except as provided in § 158.121(A)(5), the swimming pool shall be walled by a brick or solid block wall or permanently fenced to prevent uncontrolled access by children from the street or from adjacent properties. Any fence or solid wall shall be at least five feet in height and can be no greater than six feet in height and maintained in good condition with a gate and a lock which shall be engaged at any time of inactivity.

(a) On lots at least 10,000 square feet in size, the required fence need not be taller than 42 inches, so long as the pool is equipped with an automated cover capable of being locked and having a load capacity at least equal to that set forth in the "Standard performance specification for safety covers and labeling requirements for all covers for swimming pools, spas and hot tubs" published by the American Society for Testing and Materials (ASTM) International and designated as F 1346-91, or as modified which standard is incorporated herein by reference as if fully rewritten.

(b) On lots one acre or larger, there is no requirement for fencing, so long as the pool is at least 50 feet from the rear and side property lines, and is equipped with an automated cover capable of being locked and having a load capacity at least equal to that set forth in the "Standard Performance Specification for Safety Covers and Labeling Requirements for All Covers for Swimming Pools, Spas and Hot Tubs" published by the ASTM International and designated as F 1346-91, or as modified which standard is incorporated herein by reference as if fully rewritten.

(c) Pool covers referenced in 3(a) and 3(b) must be kept locked when the pool is not in actual use or when it is unattended.

(4) Swimming pools shall not be located in any front yard except on double or triple frontage lots, excluding corner lots, where pools shall be permitted to the rear of the principal structure, outside of the required front yard. See Figure 1 from § 158.104 (B).

(5) Above ground pools.

(a) The top rim of an above ground pool, top of railing, or a deck surrounding the pool shall be no less than five feet above the highest point of the adjacent grade.

(b) The stairs leading up to the deck and pool shall be secured by a locked gate. Said gate shall be no less than five feet in height to the top of the gate, and shall have swing out/swing up stairs that shall be secured within the locked gate or removed and secured away from the pool, in a manner so as to prevent the use of the stairs whenever the pool is not being used.

(c) Where the principal access point to the above-ground pool is from an abutting deck that is attached to or is immediately adjacent to the principal dwelling unit, there shall be a minimum five-foot high solid fence barrier as measured from the adjacent grade that shall completely enclose the entire deck and pool in order to prevent access to the deck and pool from the adjacent yard except through a gate located in the five-foot high fence. Said five-foot high

fence must also enclose any secondary access points from the yard to the deck as well as the pool by connecting said fence to the house.

(6) Approved pools shall not be filled with water until the required fence, deck or railing is installed in accordance with this chapter.

(B) *Community or club swimming pools.* Community and club swimming pools shall comply with the following conditions and requirements:

(1) The pool is intended solely for the enjoyment of the members and families and guests of members of the association or club under whose ownership or jurisdiction the pool is operated;

(2) The swimming pool and all of the areas used by bathers shall be walled or fenced to prevent uncontrolled access by children from the streets or adjacent properties. The fence or wall shall not be less than six feet in height and maintained in good condition with a lock and gate, which shall be engaged any time of inactivity.

(3) If the property upon which the pool is located is used for any other purpose other than open green space, and the property is adjacent to residential property, the owners of the property shall install and maintain screening as defined in § 158.135, Landscaping, Screening and Buffering.

(C) *Commercially operated swimming pools.* Commercial swimming pools shall comply with the requirements of divisions (B)(2) and (3) of this section.

(D) *Natural or man-made ponds.* Natural or man-made lakes, ponds, including those created for stormwater detention shall not be considered swimming pools under these provisions except for the following: Man made ponds, constructed after the passage of Ordinance 09-21 effective, August 26, 2009, excluding stormwater retention and detention ponds, with a diameter of 12 feet or more, or greater than 100 square feet of surface area, within a residentially zoned district, located on a parcel less than two acres. Such ponds shall adhere to the fencing requirements of this section and shall be set back at least 50 feet from any adjacent residentially zoned property. (Ord. 09-21, passed 7-27-09; Am. Ord. 10-12, passed 9-13-10; Am. Ord. 12-02, passed 2-13-12; Am. Ord. 14-17, passed 8-25-14; Am. Ord. 15-23, passed 8-24-15)

## § 158.122 LIVE SEX ACTS BUSINESSES PROHIBITED

(A) Live Sex Act Businesses are prohibited.

(B) Definitions. In this section, unless the context otherwise requires:

(1) Consideration means the payment of money or the exchange of any item of value for:

(a) The right to enter the business premises or any portion thereof; or

(b) The right to remain on the business premises or any portion thereof; or

Accessory structures include, but are not limited to, detached garages, sheds, gazebos, pools, etc. Most require a permit from the City of Xenia, as explained below.

To obtain a permit, submit an **application** and **site plan** to the City (see bottom of page for instructions).

Below is a summary of requirements and standards for common accessory structures (Land Development Code Section 1224.01).

**General**

- No permit required if less than 50 sq. ft. and no electric/plumbing
- If larger than 200 sq. ft., structural plans will be required
- Must be built AFTER construction of main building
- Paved driveway required for garages
- Temporary structures such as inflatable/portable garages, shipping containers, and trailers NOT permitted as permanent accessory structures

**Location**

- Utility easements: Anything built in a utility easement is subject to removal by utility companies if needed for maintenance purposes. Structures cannot interfere with utility lines or required drainage. Call 811 (Ohio Utilities Protection Service) to find locations of underground utilities before digging. City staff will review easement information during permit application review
- Generally must be in rear yard and on same parcel as main building
- Detached garages/carports: At least 10 ft. from lot lines
- Structures requiring alley access: At least 10 ft. from alley
- Other accessory structures: At least 3 ft. from lot lines

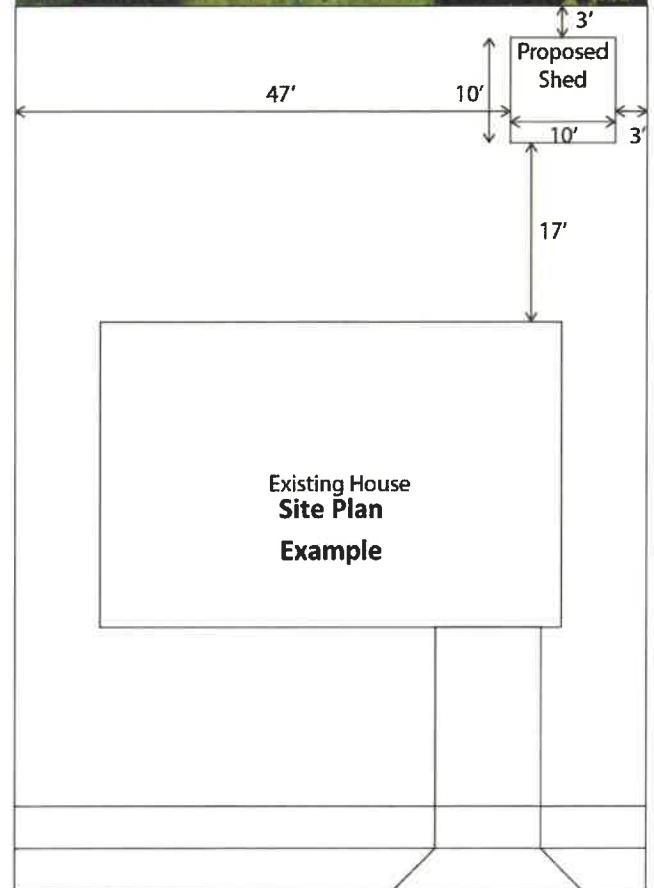
**Height/Size**

- Height: Maximum of 14 ft. tall (measured to midpoint between roof eaves and peak); may be increased to 18 ft. if exterior materials are similar to main building
- No more than 38% of required rear yard area in residential zones
- No more than 49% of main building floor space or 720 sq. ft., whichever is greater in residential zones
- No maximum sq. ft. in nonresidential zoning districts or for farm operations

**Swimming Pools**

- In-ground pools must be enclosed by minimum 4 ft. tall fence (required only at access points for above-ground pools)
- Water's edge must be at least 10 ft. from lot lines

See following pages for details regarding post-frame accessory buildings and anchoring, for accessory buildings greater than 200 sq. ft.



APPLYING FOR A PERMIT? START HERE: [WWW.EXPLOREXENIA.COM](http://WWW.EXPLOREXENIA.COM) – CLICK PERMITS

GENERAL OR ZONING QUESTIONS? CALL 937.372.6389 OR STOP BY AT 107 EAST MAIN STREET, XENIA, OHIO  
 BUILDING PERMIT QUESTIONS (BUILDINGS > 200 SQ. FT. OR ELECTRICAL): 937.433.4642  
 (NATIONAL INSPECTION CORPORATION)

PLUMBING PERMIT INFO: GREENE COUNTY PUBLIC HEALTH. 937.374.5607

**Post Frame Accessory Structures  
Plan Submittal Checklist**



Minimum Standards for post and frame structures (must meet all):

- Residential accessory structures
- Single story
- Solid exterior structural sheathing or metal roof, and solid wall panels
- No attic storage (attic storage would require engineered design trusses)
- Maximum building width of thirty six feet including the overhang
- Maximum wall height of sixteen feet
- Maximum mean roof height of twenty feet
- Maximum post spacing of eight feet (unless truss sit directly on post)

Post and frame structures outside the above structural limitations will require plans sealed by an Architect or Engineer licensed in the State of Ohio. See separate Post Frame Accessory Structure Regulations handout for more information.

- Site Plan**
  - Property lines
  - All existing and proposed structures
  - Distance to property lines for proposed structures
- Construction Details**
  - **Elevation Plan** – north, south, east and west views. Show all porches and steps.
  - **Pier Plan** – show size and depth.
  - **Floor Plan** – label all room uses and dimensions.
    - Provide window and door sizes and locations
    - Show all header sizes, spans and locations
    - Provide engineering specifications on any engineered lumber, beams, headers, joist, truss, etc.
  - **Cross-Section**
    - Show all components of the wall from pier footing to roof

All drawings shall be legible, and have details to adequately describe the work, location and use. Drawings shall distinguish between existing and proposed work. Current Residential Codes include:

- 2019 Residential Code of Ohio
- 2017 National Electric Code
- 2018 International Energy Conservation Code

APPLYING FOR A PERMIT? START HERE: [WWW.EXPLOREXENIA.COM](http://WWW.EXPLOREXENIA.COM) – CLICK PERMITS

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PLUMBING PERMIT INFO: GREENE COUNTY PUBLIC HEALTH. 937.374.5607

### Storage Shed Accessory Structures Anchorage

Storage sheds greater than 200 sq. ft. are required to be anchored to the earth. There are many different types of anchoring systems. Some of the more common anchoring methods are Auger Style Anchors, Concrete Expansion Anchors, Anchor Bolts & Foundation Anchor Plates and Straps. Variables such as the type, brand and size of anchors selected will change the number of anchors needed to secure the shed to the earth. The applicant will need to list the proposed anchors to be used and show the proposed location they are to be installed on the shed to obtain a Building Permit.



The most common anchors used for sheds on runners is Auger Style Shed Anchors.



#### Auger Style Shed Anchors

Auger style anchors are a rod with a wide helix or screw disc at the base. It is screwed into the ground; which can be difficult.

A cable or strap is attached to the ring top to secure the shed. A solution for existing sheds.

Another similar product has a bracket welded to the top for attaching the outbuilding foundation directly to it. It's more practical for new construction.

The advantage of both these products is they don't disturb the ground.

When the shed is placed on a concrete slab or piers it is common to use Concrete Expansion Anchors or Anchor Bolts.



#### Concrete Expansion Anchors

Concrete expansion anchors are bolts to secure a structure to existing concrete. A good solution for an existing shed on a concrete pad.



#### Anchor Bolts

Anchor bolts are usually for new construction and are inserted into concrete before it fully cures. After putting them into the concrete, jig it up and down to reset the concrete around it. Make sure it is aligned and level to your shed requirements.

#### Foundation Anchor Plates and Straps

Anchor plates and straps are used to secure a shed to a foundation. The shed may already rest on the foundation, or be a prefab being placed on a concrete or wooden foundation. They are a good way to secure a temporary or permanent shed to a foundation.

APPLYING FOR A PERMIT? START HERE: [WWW.EXPLOREXENIA.COM](http://WWW.EXPLOREXENIA.COM) – CLICK PERMITS

GENERAL OR ZONING QUESTIONS? CALL 937.372.6389 OR STOP BY AT 107 EAST MAIN STREET, XENIA, OHIO

BUILDING PERMIT QUESTIONS (BUILDINGS > 200 SQ. FT. OR ELECTRICAL): 937.433.4642

(NATIONAL INSPECTION CORPORATION)

PLUMBING PERMIT INFO: GREENE COUNTY PUBLIC HEALTH, 937.374.5607



# CITY OF BELLBROOK

## APPLICATION FOR ZONING VARIANCE

15 EAST FRANKLIN STREET, BELLBROOK, OHIO 45305

(937) 848-4666 [WWW.CITYOFBELLBROOK.ORG](http://WWW.CITYOFBELLBROOK.ORG)

DATE RECEIVED <u>2 / 26 / 24</u>	STAFF USE <input type="checkbox"/>	APPLICATION # <u>BZA 24-01</u>
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### APPLICANT INFORMATION

PROPERTY OWNER Scott Nagy PHONE NUMBER 937-304-9426  
 OWNER ADDRESS 1912 Sugar Maple Place, Bellbrook, OH 45305  
 APPLICANT NAME Scott & Jamie Nagy PHONE NUMBER 937-304-9426  
 APPLICANT ADDRESS 1912 Sugar Maple Place, Bellbrook, OH 45305  
 APPLICANT EMAIL nagyfam7@gmail.com

### REQUEST INFORMATION

PROPERTY ADDRESS 1912 Sugar Maple Place, Bellbrook ZONING DISTRICT PD-1  
 SUBDIVISION Highview Terrace LOT NUMBER 22A PARCEL ID L35000100030014000  
 DESCRIBE THE GENERAL NATURE OF THE VARIANCE We request a variance that allows an auto-cover (meets all ASTM requirements) over a swimming pool as an approved additional horizontal barrier - in conjunction with our existing vertical four-foot fence to meet zoning requirements.

**SEE THE REVERSE OF THIS PAGE FOR ADDITIONAL INFORMATION TO BE INCLUDED WITH AN APPLICATION FOR ZONING VARIANCE.**

I UNDERSTAND THAT APPROVAL OF THIS APPLICATION DOES NOT CONSTITUTE APPROVAL FOR ANY ADMINISTRATIVE REVIEW, CONDITIONAL USE PERMIT, VARIANCE, OR EXCEPTION FROM ANY OTHER CITY REGULATIONS WHICH ARE NOT SPECIFICALLY THE SUBJECT OF THIS APPLICATION. I UNDERSTAND THAT APPROVAL OF THIS APPLICATION DOES NOT CONSTITUTE APPROVAL OF A BUILDING OCCUPANCY PERMIT. I UNDERSTAND FURTHER THAT I REMAIN RESPONSIBLE FOR SATISFYING REQUIREMENTS OF ANY PRIVATE RESTRICTIONS OR COVENANTS APPURTENANT TO THE PROPERTY.

I CERTIFY THAT I AM THE APPLICANT AND THAT THE INFORMATION SUBMITTED WITH THIS APPLICATION IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT THE CITY IS NOT RESPONSIBLE FOR INACCURACIES IN INFORMATION PRESENTED, AND THAT INACCURACIES MAY RESULT IN THE REVOCATION OF THIS ZONING CERTIFICATE AS DETERMINED BY THE CITY. I FURTHER CERTIFY THAT I AM THE OWNER OR PURCHASER (OR OPTION HOLDER) OF THE PROPERTY INVOLVED IN THIS APPLICATION, OR THE LESSEE OR AGENT FULLY AUTHORIZED BY THE OWNER TO MAKE THIS SUBMISSION.

I CERTIFY THAT STATEMENTS MADE TO ME ABOUT THE TIME IT TAKES TO REVIEW AND PROCESS THIS APPLICATION ARE GENERAL. I AM AWARE THAT THE CITY HAS ATTEMPTED TO REQUEST EVERYTHING NECESSARY FOR AN ACCURATE AND COMPLETE REVIEW OF MY PROPOSAL; HOWEVER, AFTER MY APPLICATION HAS BEEN SUBMITTED AND REVIEWED BY CITY STAFF, I UNDERSTAND IT MAY BE NECESSARY FOR THE CITY TO REQUEST ADDITIONAL INFORMATION AND CLARIFICATION.

I HEREBY CERTIFY, UNDER PENALTY OF PERJURY, THAT ALL THE INFORMATION PROVIDED ON THIS APPLICATION IS TRUE AND CORRECT.

APPLICANT SIGNATURE Scott Nagy DATE 2/26/24

OFFICE USE ONLY		
APPLICATION FEE	PAYMENT TYPE	REVIEW AUTHORITY
<u>\$ 250.00</u>	CASH <input type="checkbox"/> CHECK <input checked="" type="checkbox"/> # <u>1331</u>	ADMINISTRATIVE, BOARD OF ZONING APPEALS



BOARD OF ZONING APPEALS	MEETING DATE <u>3</u> / <u>19</u> / <u>24</u>	APPROVED	DENIED	CONDITIONS	

APPLICATION FOR ZONING VARIANCE

OCTOBER 2017

**AMENDING THE ZONING CODE**

**A. PROCEDURES AND REQUIREMENTS FOR VARIANCES (ZONING CODE 20.13)**

TO VARY THE STRICT APPLICATION OF ANY OF THE REQUIREMENTS OF THIS ORDINANCE IN THE CASE OF EXCEPTIONALLY IRREGULAR, NARROW, SHALLOW OR DEEP LOTS, OR OTHER EXCEPTIONAL PHYSICAL CONDITIONS, WHEREBY SUCH STRICT APPLICATION WOULD RESULT IN PRACTICAL DIFFICULTY OR UNNECESSARY HARDSHIP - NOT ECONOMIC IN NATURE – THAT WOULD DEPRIVE THE OWNER OF REASONABLE USE OF THE LAND OR BUILDING INVOLVED BUT IN NO OTHER CASE. THE FACT THAT ANOTHER USE WOULD BE MORE PROFITABLE IS NOT A VALID BASIS FOR LEGALLY GRANTING A VARIANCE. NO NONCONFORMING USE OF NEIGHBORING LANDS, STRUCTURES, OR BUILDINGS IN THE SAME DISTRICT, AND NO PERMITTED USE OF LANDS, STRUCTURES OR BUILDINGS IN OTHER DISTRICTS SHALL BE CONSIDERED GROUNDS FOR THE ISSUANCE OF A VARIANCE. THE VARIANCE REQUESTED SHALL NOT ALTER THE ESSENTIAL CHARACTER OF THE LOCALITY, NOR BE IN CONFLICT WITH THE COMPREHENSIVE MASTER PLAN. IN MAKING THIS DETERMINATION, THE BOARD OF ZONING APPEALS SHALL BE ADVISED BY THE RECOMMENDATION OF THE PLANNING BOARD. IN CASES INVOLVING PROPERTIES SITUATED WITHIN THE VILLAGE DISTRICT, AS DEFINED BY ARTICLE 14, SECTION 14.02 OF THE BELLBROOK ZONING CODE, THE VILLAGE REVIEW BOARD SHALL, WHEN POSSIBLE, MAKE A RECOMMENDATION TO THE BOARD OF ZONING APPEALS REGARDING THE DISPOSITION OF THE VARIANCE REQUEST.

**B. APPLICATION AND STANDARDS FOR VARIANCES (ZONING CODE 20.13.2)**

A VARIANCE FROM THE TERMS OF THIS ORDINANCE SHALL NOT BE GRANTED BY THE BOARD OF ZONING APPEALS UNLESS AND UNTIL A WRITTEN APPLICATION FOR A VARIANCE IS SUBMITTED TO THE ZONING INSPECTOR AND THE BOARD OF ZONING APPEALS CONTAINING:

- a) NAME, ADDRESS AND PHONE NUMBER OF APPLICANTS;
- b) LEGAL DESCRIPTION OF PROPERTY; AND A SITE PLAN BASED ON AN ACCURATE SURVEY SHOWING EXISTING AND/OR FUTURE BUILDING LOCATIONS AND THE LOCATIONS OF BUILDINGS ON ADJACENT PROPERTIES. THIS SITE PLAN SHOULD BE PREPARED BY A REGISTERED SURVEYOR ATTESTING TO THE ACCURACY OF SAME;
- c) DESCRIPTION OF NATURE OF VARIANCE REQUESTED;
- d) VARIANCES FROM THE TERMS OF THE ZONING ORDINANCE SHALL BE GRANTED ONLY WHERE THE PROPERTY OWNER SHOWS THAT THE APPLICATION OF A ZONING REQUIREMENT TO THE PROPERTY IS INEQUITABLE CAUSING THE PROPERTY OWNER PRACTICAL DIFFICULTIES IN THE USE OF THE PROPERTY. FACTORS TO CONSIDER INCLUDE, BUT ARE NOT LIMITED TO:
  - 1) WHETHER THE PROPERTY IN QUESTION WILL YIELD A REASONABLE RETURN OR WHETHER THERE CAN BE ANY BENEFICIAL USE OF THE PROPERTY WITHOUT THE VARIANCE; 2) WHETHER THE VARIANCE IS SUBSTANTIAL;
  - 3) WHETHER THE ESSENTIAL CHARACTER OF THE NEIGHBORHOOD WOULD BE SUBSTANTIALLY ALTERED OR WHETHER ADJOINING PROPERTIES WOULD SUFFER A SUBSTANTIAL DETRIMENT AS A RESULT OF THE VARIANCE;
  - 4) WHETHER THE VARIANCE WOULD ADVERSELY AFFECT THE DELIVERY OF GOVERNMENTAL SERVICES SUCH AS WATER, SANITARY SEWER OR GARBAGE REMOVAL;
  - 5) WHETHER THE PROPERTY OWNER PURCHASED THE PROPERTY WITH KNOWLEDGE OF THE ZONING RESTRICTION;

6) WHETHER THE PROPERTY OWNER'S PREDICAMENT FEASIBLY CAN BE OBIATED THROUGH SOME M VARIANCE; AND

7) WHETHER THE SPIRIT AND INTENT BEHIND THE ZONING REQUIREMENT WOULD BE OBSERVED AND SUBSTANTIAL JUSTICE DONE BY GRANTING THE VARIANCE. THE BOARD SHALL DETERMINE, AFTER AND WEIGHING THE FACTORS DESCRIBED ABOVE AND ANY OTHER FACTORS THE BOARD DEEMS RELEVANT, WHETHER THE PROPERTY OWNER HAS SHOWN PRACTICAL DIFFICULTIES SO INEQUITABLE AS TO JUSTIFY GRANTING A VARIANCE TO THE PROPERTY OWNER.

**C. THE BOARD ASKS THE APPLICANT TO ANSWER ITEMS 1-7 ABOVE IN WRITING TO BE INCLUDED WITH THIS APPLICATION.**

APPLICATION FOR ZONING VARIANCE

OCTOBER 2017



To: BZA/PRC  
 From: Jason Foster, Community Development Administrator  
 Date: March 5, 2024  
 Subject: Staff Report for BZA 24-01 1912 Sugar Maple Place

**Summary of the Request**

The applicant Scott & Jamie Nagy, accompanied by the contractor, Knickerbocker Pools, are requesting a variance of Bellbrook Zoning Section 18.05B to allow the construction of an inground swimming pool with the existing four-foot fence and the addition of an automatic pool cover. Zoning Code section 18.05B requires and five-foot fence be installed around an inground pool.

The proposed pool a 17' x 39' with proposed setbacks of 50' (rear), 33'6" (north), and 25'6" (south). The property has an existing four-foot fence around the entirety of the rear yard.

The proposed automatic cover meets or exceeds all A.S.T.M. (American Society for Testing and Materials) safety standards.

Another consideration in this case is code requirements for surrounding cities. Beavercreek, Xenia, and Fairborn all require a four-foot fence for pool installation. Bellbrook requires a five-foot fence. This is a code that the City of Bellbrook has studied and proposed an update to.

**Applicant Information**

Owner: Scott & Jamie Nagy Contractor: Knickerbocker Pools

**Current Zoning District**

PD-1, Planned Residential

**Parcel Identification**

L35000100030014000

**Additional Actions or Next Steps to be taken by the City**

If variance is approved, a permit will be applied for and approved

### **Applicant's Reason for the Request**

The applicant wishes to install an automatic pool cover as a horizontal barrier to accompany the existing four-foot fence. Zoning Code requires a minimum five-foot fence surrounding a pool.

### **Surrounding Land Use within 1,000 Feet**

Residential

### **Previous Related Development Decisions in the Immediate Area (3-5 Years)**

None

### **Comprehensive Plan Applied to the Geographical Area**

N/A

### **Existing Public Utilities**

Gas, Electric, Sewer, Fiber

### **Soil Survey Data**

N/A

### **Classification of Streets, Traffic Volumes & Direction, Planned Improvements**

N/A

### **Flood Plain Information**

The property is not within the flood plain

### **Comments from City and County Agencies**

N/A

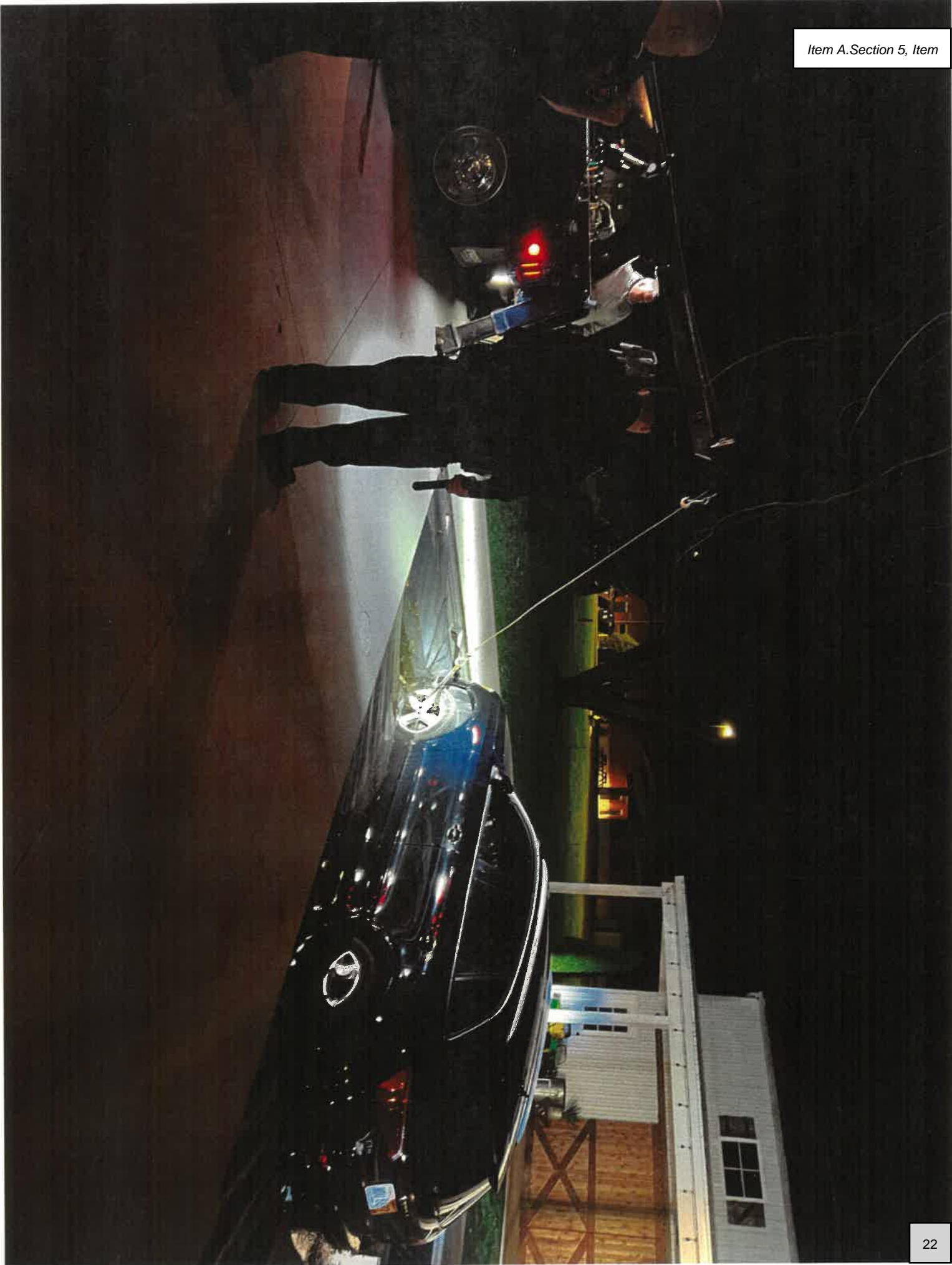
### **Supporting Maps & Graphics**

See Attached

**Staff Recommendation**

Staff recommends BZA consider the request





# Automatic Pool Covers



Knickerbocker Pools, INC.  
2000 N. U.S. 68  
Xenia, OH 45385  
(937) 372-3839

## Reasons Why Automatic Safety Covers Are A Viable Alternative To Fencing

(All references to “Covers” means Automatic Covers that comply with A.S.T.M. F 1346-91 Standard)

### Safety Advantages:

- ❁ **Covers have an unblemished record.** Since 1960 when covers were first introduced, there has never been a drowning in a pool or spa that was equipped with a cover.
- ❁ **Covers are the equivalent of a “horizontal” fence.** Covers are the only barriers that prevent access to the pool water. Fences or “vertical” barriers, at best, prevent access to the pool area. Once inside the fence you have unrestricted access to the water.
- ❁ **Covers not only seal the pool but also eliminate visibility of the pool water, preventing children from being drawn toward the pool as a result of their natural attraction to the water.**
- ❁ **Covers eliminate the danger posed by the fascination children have with floating objects in the pool.** Claims have been made that toys floating in the pool attract children and contribute to the rate at which small children drown in residential pools.
- ❁ **Covers do not restrict view of the pool area.** Fences and walls may inhibit the view from the home or other areas in the yard to the pool area.
- ❁ **Covers can be monitored from a distance as to their closed and secured position.** when viewed from the house, it is difficult, at best, to determine if the pool is covered or uncovered.
- ❁ **Covers have a standard in place that assures their proper installation and adherence to rigid safety requirements.** A.S.T.M. F 1346-91, is a standard that mandates specific warning labels and very explicit performance criteria, among which are requirements that prevent small children from being able to operate the cover or access to the pool water.





## **Important Automatic Pool Cover Information**

### **•Fabric Strength**

•The automatic covers Knickerbocker Pools installs is a “safety cover” that meets or exceeds all of the A.S.T.M. standards for a safety cover. The cover creates a barrier capable of supporting the weight of several people (at least 485 lbs. in a 5’ radius).

### **•Covering the Pool Manually**

•In the event of an emergency (i.e. a power outage), it is possible to cover the pool manually to prevent access to the pool. Covering the pool manually requires two people. Remove the shifting collar to separate the main shaft from the motor shaft. Pull a few feet of the ropes off the rope reels on both sides of the cover. Pull the ropes evenly until the cover goes across the entire length of the pool until the pool is successfully closed. Power would need to be restored in order to open the pool cover.

### **•Operating Instructions**

- Maintain a clear view of the pool while operating the cover
- Never operate the cover with swimmers in the pool
- Restrict access of the operating switch to children and adults unfamiliar with the operation of the cover by removing the key from the switch.
- Always have the cover closed and the key removed from the switch when the pool is not in use.
- Keep rain water removed from the cover by always using the provided automatic cover pump included.

## **Economic and Miscellaneous Advantages**

- Covers are physically practical in situations where fencing may not be.
- Covers do not reduce the usable space available in backyards.
- Cover owners receive considerably more safety information from cover manufacturers than is generally provided by the fencing industry, increasing the level of safety consciousness of cover owners.
- Covers offer several non-safety benefits such as ease of maintenance and reduction in pool operating costs.
- Covers are not likely to be dismantled or removed.

## Children Drowning Study - Barriers

(Reprinted from a 1998 Northern California NSPI Chapter Newsletter)

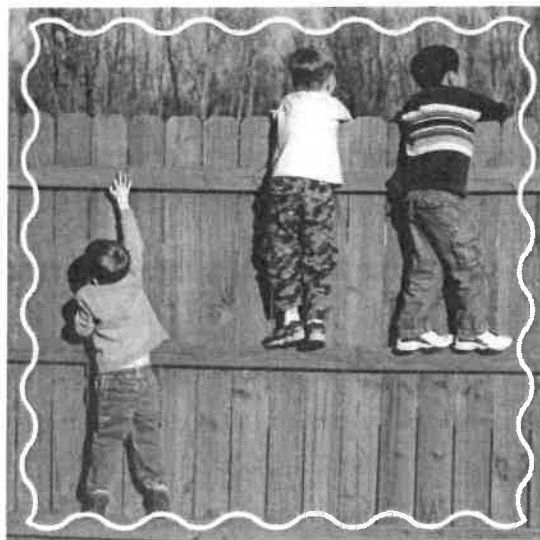
Over the past dozen or more years we have found ourselves debating the value of four-sided isolation fencing around swimming pools before city councils, county boards of supervisors and the State Legislature. At all of these political fights we were opposed by a coalition of “child drowning prevention” advocates. Perhaps the most prestigious of these organizations demanding four-sided fencing legislation has been the National Academy of Pediatrics. They have appeared in every hearing from the first one before the Contra Costa County Board of Supervisors.

At every occasion, the pediatricians have staked their professional reputations on their “certain knowledge” that such isolation fencing would have saved all of the children who have drowned and who have been injured in near-drowning accidents. SPEC has always argued that this assertion was false. Isolation fences create a false sense of security, “allowing” those responsible for supervising toddlers playing in yards with fenced pools to drop their guards for “just a moment or two” to answer phones, front doors, make bathroom trips, etc., etc.

This past June the journal of the American Academy of Pediatrics published the accompanying study, “Childhood Drowning and Fencing of Outdoor Pools in the United States, 1994.” The scientific study perhaps the only thorough study on this subject in the U.S., was designed to determine the effectiveness of four-sided isolation fencing in preventing child pool accidents. The study came to the same conclusion as did Dr. Lay’s study in Australia nearly a decade ago.

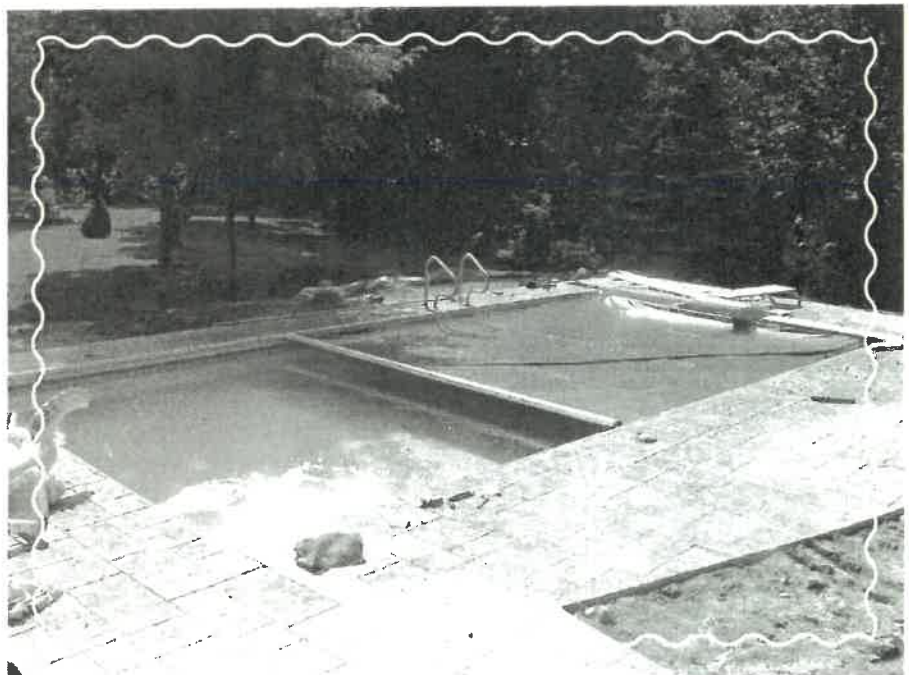
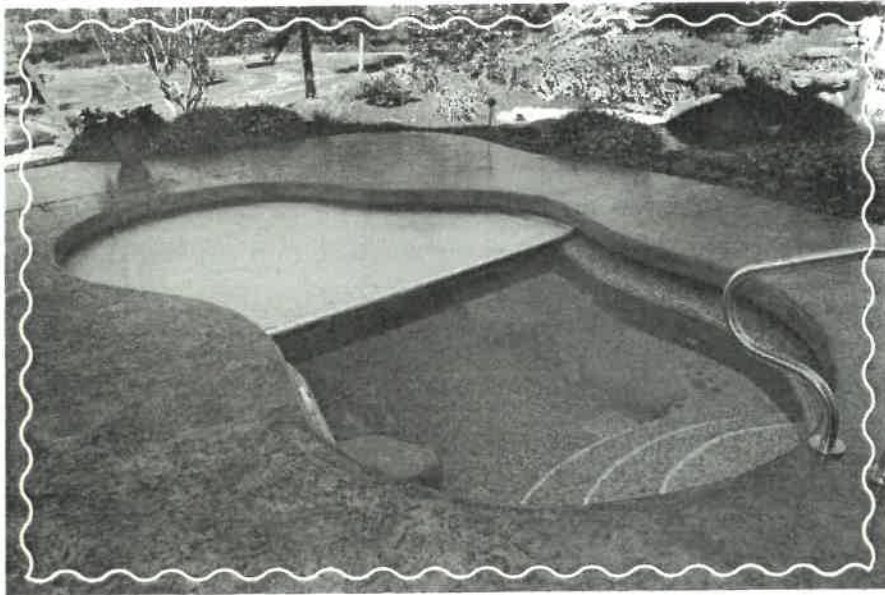
**“Our research suggests that even if all residential pools in the United States were properly fenced, most drowning among children 5 years of age would not be prevented.”**

### What child do you know that cannot climb a vertical fence?



**So remember...**

**A horizontal pool barrier, like an automatic swimming pool cover, prevents access to the water from any child!**



**City of Bellbrook  
State of Ohio**

**Board of Zoning Appeals Decision Record BZA 24-01**

WHEREAS, the owner of 1912 Sugar Maple Place has requested a variance of Zoning Code Section 18.05 B to allow the construction of an inground swimming pool with a four-foot fence and automatic pool cover; and

WHEREAS, The Bellbrook Board of Zoning Appeals has reviewed and agrees a variance to the code for this use is appropriate.

**NOW, THEREFORE, BE IT RESOLVED** by the City of Bellbrook Board of Zoning Appeals that:

Section 1. There was a valid motion placed on the floor to approve a variance of Zoning Code 18.05 B for case # BZA-24-01 after reviewing the procedures and requirements for said variance in accordance with Article 20, Section 20.13 and 20.13.1 of the Bellbrook Zoning Code have been met.

Section 2. That it is found and determined that all formal actions of the Board of Zoning Appeals relating to the adoption of this Decision Record Resolution were adopted in an open meeting of this Board, and that all deliberations of this Board and any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements, including §121.22 of the Revised Code of the State of Ohio.

MOTION STATED BY: \_\_\_\_\_ and SECONDED BY: \_\_\_\_\_

Roll call vote showed \_\_\_\_\_ Yeas; \_\_\_\_\_ Nays.

Motion to approve is \_\_\_\_\_ this 19<sup>th</sup> day of March 2024

**AUTHENTICATION:**

\_\_\_\_\_  
Philip Ogrod, Chair

\_\_\_\_\_  
Rob Schommer, Clerk of Council