

**A MEETING OF THE ZONING BOARD OF APPEALS WAS CALLED TO ORDER AT 7:30 PM, TUESDAY, DECEMBER 12, 2017 AT CITY HALL BY CHAIRPERSON EVANS.**

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**PRESENT:** Paul Evans                      Dean Smith                      Ryan Gesund                      Scott Emmons  
                 Steve Allen                      Mike Kerby                      Greg Butts

**ABSENT:** Susan McAlpine                      Miles Uhlar

**ALSO PRESENT:**

Matthew Baumgarten, City Manager  
Alan Kideckel, City Council Liaison

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**APPROVAL OF AGENDA**

It was moved by Mr. Kerby and supported by Mr. Gesund to approve the agenda noting a correction on the description of Item 1.

AYES:            Evans, Smith, Gesund, Allen, and Kerby Emmons, and Butts  
NAYS:            None  
ABSENT:        McAlpine, Uhlar

**Motion Carried.**

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**APPROVAL OF MINUTES**

Board Members discussed possible corrections and clarifications.

It was moved by Mr. Allen to approve the minutes of November 13, 2017, with the suggested corrections included and supported by Mr. Gesund.

AYES:            Evans, Smith, Gesund, Allen, and Kerby Emmons, and Butts  
NAYS:            None  
ABSENT:        McAlpine, Uhlar

**Motion Carried.**

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**1. Application Number PBA-08-17**

Tim Chapman, 3012 Oakshire Ave, S 1/2 of Lot 344 & N 20 ft of Lot 345, Thomas Brothers Beverly Park Subdivision, Parcel ID #25-18-132-014, east side of Oakshire, between Beverly and Wiltshire is requesting a variance to allow a pool to remain within six feet of a fence and accessory structures.

Baumgarten noted that this item was postponed following the November Regular meeting of the Zoning Board of Appeals and gave review of the facts of the case.

Steve Allen asked Baumgarten if a representative of the City or its Building Department had reached out to the vendor or the installer concerning the lack of permits pulled for the installation of Mr. Chapman's pool. Baumgarten noted he was not aware if anyone had yet made contact with the vendor or the installer.

Chair Evans invited Tim Chapman to offer additional details and reasoning for pursuing a variance.

Chair Evans opened the public hearing at 7:40 PM and hearing no comments, closed the hearing at 7:40pm.

D. Smith explained that he had visited the site in his role as a Board member and saw no other viable option given the layout of the rear property. He noted that safety is an issue given the location of the garage. He did not want someone to attempt to leap from garage into pool. He also noted that the A/C unit would need to be grounded if pool was allowed to remain.

S. Allen noted his dismay with the vendor and installer for selling and installing a pool without oversight and proper permits. Noted that this would have been avoidable.

Chair Evans invited the applicant to address questions about insurance and garage. The applicant noted that he was able to gain insurance with a specific rider on the policy and that he had built the garage on site in 2015. It was noted that the aerial photo in the staff report shows only a shed in the rear yard and was taken before the construction of the garage.

D. Smith noted that the installation of the larger garage shifts the onus onto the applicant who created his own issue with the lack of space in the rear yard.

Chair Evans agreed and noted there are simply too many structures and accessory structures existing in the rear yard too allow for addition of a pool as requested and that he was not inclined to support the variance.

S. Allen noted the potential for flood damage to these structures if the pool were to rupture.

It was moved by Mr. Gesund and seconded by Mr. Allen to deny BA-08-17 citing that a practical difficulty had not been proven due to the fact that the applicant had caused the need for the variance through his own actions.

AYES: Evans, Smith, Gesund, Allen, and Kerby Emmons, and Butts  
NAYS: None  
ABSENT: McAlpine, Uhlar

**Motion Carried.**

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## **OTHER BUSINESS**

R. Gesund wished everyone a happy holiday season and thanked those that attended this meeting. Many other members joined him in this sentiment.

S. Allen requested that proof of ownership be added to the informational packet moving forward.

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## **LIAISON REPORTS**

Councilmember Kideckel indicated that he will remain in his role as City Council liaison to ZBA. He outlined that upcoming steps to fill the City Council vacancy left when Dan Terbrack was sworn in as the Mayor of Berkley.

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## **PUBLIC COMMENTS**

W. Zabramski thanked the Board for their decision and requested some follow up with the vendor and installer to prevent similar situations and to make sure they are aware of the permit requirement.

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There being no further business, Chair Evans adjourned the meeting at 7:59 PM.