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**MINUTES OF THE MEETING OF THE BOARD OF APPEALS
BURLINGTON, MA
March 1, 2022**

Chairman Michael Murray, Jr. called the meeting of the Burlington Board of Appeals to order at 7:30 p.m. The meeting was held in the Main Town Hall Meeting Room, 2nd Floor, 29 Center Street, Burlington and on Webex.

Present: Chairman: Michael Murray, Jr, Vice Chairman: Charles Viveiros, Mark Burke, Jeremy Harrington and Jeffrey DiBona

Absent: Joe Currier and John Sullivan

Chairman Murray asked to take the minutes out of order, to allow extra time for the applicant to get online.

Motion made and seconded to take the minutes out of order. 5-0 in favor

Motion made and seconded to approve the minutes from February 1, 2022. 5-0 in favor.

**New Hearing
2022-2
9 Scott Ave**

The petition of Robert and Nancy Capparelli for property located at 9 Scott Avenue, Burlington, MA 01803 as shown on the Burlington Assessor's records, Map and Parcel reference 17-117-0. The applicant is seeking a variance to construct an above ground pool. The plot plan submitted shows the pool does not meet the required side and rear setbacks.

Violation of Article V-Section 5.2.0 Burlington Zoning By-law requires a minimum of 15-foot rear and side setbacks.

Legal notice read into record.

Peter deBernardo provided an overview of the project stating the family is looking to build an above ground pool however because the lot is wide and not deep.

they require a variance to achieve this.

Mr. Harrington question why they could not move it further away and then they would not need a variance.

Mr. deBernardo responded there are outdoor utilities and a deck with a staircase. It would be difficult to access it, especially with the 6-foot fence around the yard. He added the pool will not be visible from the ground.

Open to the Public:

Barbara Mingle- 2 Murray Ave Unit 2 expressed concerns about privacy from the condominiums, because residents will be able to see it. She asked about when the trees would go in if it would be at the same time as the pool.

Nancy Capparella the homeowner stated she has been talking with the landscaper and he is willing to work with the contractor to put in trees that will be higher than the fence to provide privacy. She added they were waiting to decide on the trees after they find out if the variance is approved and it would be done at the same time as the pool.

Joe Fazio – 8 Murray Ave, property manager, stated he had concerns about privacy and noise. He asked if placing trees would be enforceable by the town.

Mr. Murray stated if it is a condition to the variance, but reminded him, if they can fit the pool without needing a variance, they would not have to put the trees in. He asked for more clarification on why the pool has to be there.

Mr. deBernardo stated there is a slab just beyond the house and provided a description of the lot and this is the logical place to have it for accessibility reasons.

Mr. Murray stated the setbacks are what are, and the Board look at the hardships.

Mr. DiBona wanted to see the measurements from the house to the pool and stated it looks like there is a temporary pool.

Mr. deBernardo showed a picture of the backyard to help explain the placement. He stated it appears to be 12 feet off the house, and within that area that is where the air conditioning units are.

Ms. Mingle asked about the setback from the condo's to the property and was informed it was about fifteen feet.

Mr. Viveiros questioned the plot plan as being older and it doesn't appear to have all the dimensions marked.

Mr. Burke stated it appears you can move it northerly to get around one of the setbacks and asked about the type of trees they are planning on putting in.

Mr. Murray asked for the dimensions of the pool and a discussion around the correct dimensions of the yard, and it looks like it is possible to move it a little closer. He stated he needs to know why the pool needs to be there.

Mr. deBernardo stated it could be moved two feet from the back and side but couldn't be much closer because of the deck and it would be difficult to move around. He added he did not think it would be detrimental to the neighborhood.

Mr. Murray asked about the type of trees and was informed by the home owner there would be minimally thirteen arborvitaes on the perimeter of the pool. Mr. Murray stated by moving the pool it will give them additional room for the trees.

Mr. DiBona stated the ten feet will work.

Motion made and seconded to close the public hearing. 5-0

Motion made and seconded to grant a rear and side setback of ten feet for the purpose of structure and above ground pool with the condition a natural barrier of approximately thirteen arborvitaes. 5-0 in favor.

Motion made and seconded to Adjourn 5-0.