

POOL VARIANCE

1. Explain how the variance will not adversely affect the public health, safety, or welfare.

The variance for the placement of the residential private pool requested for 500 Briar Hill Road will not adversely affect the public health, safety, or welfare. The pool is protected by a privacy fence, limiting visibility and accessibility to the pool. The pool's current location minimizes alterations in slope/elevation serving to minimize run off/drainage burden.

2. Explain how the variance will not alter the essential character of the general vicinity.

The current location of the pool, installed in the area with the least change in elevation on our property in the back yard, serves to lessen the burden of slope/elevation change, allowing for optimal drainage. Furthermore, the current location of the pool optimized the present landscape and elevation to minimize alterations to the yard/land.

3. Explain how the variance will not cause a hazard or a nuisance to the public.

The requested variance to allow for the current location of the pool keeps the pool closer to the house, allowing for optimization of monitoring of the pool area for safety, adding another level of protection to the public. The location of the pool also allows for the pool to be further concealed from the public by way of privacy fencing, minimizing any potential attractive nuisance issues.

4. Explain how the variance will not allow an unreasonable circumvention of the requirements of the zoning regulations.

The unique location and circumstance of the property at 500 Briar Hill Road as corner lot includes setbacks, side yard setbacks, and infill considerations. The suggested location of the pool utilizing those unique corner lot considerations would not be possible secondary to multiple easements for utilities (MSD/LG&E) in the back yard. The current location of the pool is necessary to avoid said obstacles and ensure a safe environment by ensuring a location away 20 feet away from both street and backyard power line structures. Furthermore, the current location does not represent an overly unreasonable variance in current coding considerations.

Additional Consideration:

1. Explain how the variance arises from special circumstances, which do not generally apply to land in the general vicinity.

The property at 500 Briar Hill Road is a corner lot, requiring additional coding considerations in terms of setbacks and infills. Additionally, the easements in the rear of the back yard and the side yard, for both MSD and LG&E/powerlines, limit other potential locations for the placement of the pool, (a pool must be a minimum of 20 feet away from powerlines). The degree of slope/elevation change from the rear back yard to the rear back yard are considerable (> 4ft) and could represent greater disturbance to the current landscape, character, and drainage of the property.

2. Explain how the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship.

The strict application of the provisions established in the codes pertaining to the property at 500 Briar Hill Road, would ultimately deprive our family from the dream of being able install and enjoy a backyard pool. Furthermore, together with our certified pool contractor, we followed the appropriate process for obtaining all appropriate permits prior to initiation of construction. Approval was granted on 7/11/2023, (permit number 2023457, see attached copies) for installation of our pool in it's current configuration/location, through the Metro Government for Louisville.

3. Are the circumstances the result of actions of the applicant taken subsequent to the adoption of the regulation from which relief is sought?

No. The regulations were in place prior to installation of the pool. As noted previously, approval for the current configuration/location of the pool was granted through the Metro Government Department of Public Health and Wellness on 7/11/2023 (permit number 2023457), prior to the installation of the pool (8/7/2023).

FENCE HEIGHT

1. Explain how the variance will not adversely affect the public health, safety, or welfare.

The variance for a 6-foot fence requested for 500 Briar Hill Road will not adversely affect the public health, safety, or welfare. Conversely, the requested variance would enhance the public safety and welfare by limiting visibility and access to an attractive nuisance (i.e. a pool) located 12 feet from the fence line. Our property is located off a heavily traveled arterial roadway (Lexington Road) with a bus stop approximately 60 ft. from the pool. Our property is across the street from a populated elementary school (Sacred Heart Model School) and down the street from two other schools (Holy Spirit Catholic School & Sacred Heart Academy) with a large population of unmonitored minors who routinely utilize the sidewalk directly adjacent to the fence to get to and from school. The sidewalk adjacent to the fence is also highly trafficked on nights and weekends with patrons on foot from the St. Matthews bar scene. We firmly believe the height of the fence is imperative to decrease the potential for any injury or accidental drowning for any passerby, thus providing greater public safety.

2. Explain how the variance will not alter the essential character of the general vicinity.

The 6-foot fence does not obstruct sight lines while attempting to turn onto Lexington Road from Briar Hill Road (see included photo). The fence does not distract or deter from the surrounding landscapes as it is strategically located behind the row of established trees just adjacent to the public sidewalk. These large, established trees actually obscure the view of the fence itself.

3. Explain how the variance will not cause a hazard or a nuisance to the public.

The 6-foot height of the fence will actually improve the safety to the general public. We believe, in fact, that the added two feet of height will allow for greater public safety given that the average adult male is 5'9" and the average adult female is 5'3". Both heights would allow easy visibility to the pool from passer bys on foot or in a vehicle, which can be an attractive nuisance and create a potential hazard (see included photo).

4. Explain how the variance will not allow an unreasonable circumvention of the requirements of the zoning regulations.

Consideration for personal familial safety (children age 11, 5, 4) and general public safety was of the utmost importance to us when considering installation of a pool in an easily accessible location. Great consideration was given to the choice made for location of the fence and potential hazards or risks associated with its placement. The additional two feet of fence (4 vs. 6) was completed after extensive consideration for obstructing sight lines, traffic pattern/flows, and mitigation of the dangers to the general public with an open and accessible pool on a major thoroughfare. The last thing we want is anyone harmed from the potentially "inviting" nature of a pool. The additional height would keep the pool out of sight of the general public thus minimizing the potential for safety concerns of the surrounding properties laden with children. During our building process we consulted both with the fence installer and the Office of Planning and Design regarding any concerns with the height of a six-foot fence. My spouse, G.W. Johns called and spoke with a female employee on Friday June 23rd, 2023 regarding the fence height. After expressing the concern for public safety with respect to the pool, he shared our specific location and concern for height restrictions, this female employee indicated that anything "under 7 feet was ok" as the right-of-way started in the middle of the roadway for our location. Had we known this information was inaccurate at the time, we would have proceeded with the variance application from the onset as we feel strongly about the importance of not creating a

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public nuisance or any potential for harm to any passerby, nor our children (from the public at large). We attempted our due diligence to be informed citizens of the code but clearly were misinformed.

Additional Consideration:

1. **Explain how the variance arises from special circumstances, which do not generally apply to land in the general vicinity.**

Please see above answers for consideration. Secondary to the installation of a pool just adjacent to a major thoroughfare, 12-feet from the fence line, a fence of 6-foot along the Lexington Road side of the yard will allow for greater safety for the general public due to the aforementioned reasons.

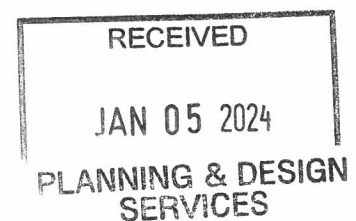
2. **Explain how the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship.**

A 4-foot fence, instead of a six-foot fence would allow for easy visibility and access to the backyard property in which a pool resides and children play. There is a stone wall 17-inches in height (from the street side), just interior to the current 6-foot fence line. Careful consideration was given to the height of the potential fence as a 4-foot fence would allow any able-bodied person (child or adult) of average height to step onto the stone wall and easily traverse over the 4-foot fence and glean access to a non-monitored private pool.

As previously indicated, my spouse and myself attempted, to the best of our ability, to determine any regulatory restrictions with our fence installer, researching online, and contacting the zoning office for guidance. The 6-foot fence in question is situated behind the tree line, far enough away from Lexington Road to not cause any potential hazards to line of sight for those turning off of Briar Hill Road (see pictures). The design of the fence was simple and fits with the aesthetic of the neighborhood and surrounding properties as to not distract or deter from the overall character of the community. Reduction of the fence height would likely result in consideration of other means to block that area from access to the attractive nuisance (i.e. bulky bushes, large trees, etc.) In reducing the height of the fence, it would also require removal of the current fence, purchasing of new vinyl fencing, and replacement costs totaling an approximate additional cost of \$5000.00. This would create an unnecessary financial hardship.

3. **Are the circumstances the result of actions of the applicant taken subsequent to the adoption of the regulation from which relief is sought?**

No, unfortunately we were unaware of the 4-foot regulation until we received the certified letter from the Metro Zoning Office on November 18, 2023. Our pool and fence installation was completed in August of 2023.



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