

VARIANCE STAFF REPORT	City-County Planning Commission 1141 State Street Bowling Green, Kentucky 42101 (270) 842-1953
<u>Docket Number:</u> 2011-V-12 <u>Public Hearing Date:</u> June 9, 2011 <u>Pre-Application Meeting Date:</u> May 9, 2011	<u>Property Owner(s):</u> Hans and JoAnn Kerbetz 517 Atlanta Ct. Bowling Green, KY 42103
<u>Location of Proposed Variance:</u> 517 Atlanta Ct. <u>Acreage or Square Footage of Tract:</u> .27 Acres (11,791 square feet) <u>PVA Parcel Number:</u> 053C-13B-056	<u>Site District:</u> Urban Density Development District <u>Focal Point:</u> 108-4C Peachtree <u>Characteristics:</u> Residential. Low density, suburban single family residential neighborhood. <u>Existing Land Use:</u> Residential
<u>Traffic Considerations:</u> The property has frontage on Atlanta Ct., a City maintained urban local roadway with fifty (50) feet of right-of-way and twenty-four (24) feet of pavement width.	<u>Zone Classification:</u> RS-1C (Single Family Residential) <u>Property Development Standards:</u> <div style="text-align: right;"><u>Setbacks:</u></div> <i>Front Yard: 25 Feet</i> <i>Side Yard: 7.5 Feet</i> <i>Rear Yard: 10 Feet</i> <i>Swimming Pool: 10 Feet</i> <i>Lot Coverage: 60%</i>

DESCRIPTION OF REQUEST

The applicants are requesting a five (5) foot variance from the ten (10) foot rear yard setback required for a swimming pool as an accessory use to a residential structure.

ZONING ORDINANCE REFERENCE

Article 4.5.4

VARIANCE REQUEST REFERENCE

The provision of the Zoning Ordinance from which this variance is requested is referenced in Article 4.5.4

Accessory Structures

4.5.4.F.9.b A swimming pool as an accessory use to a residential structure shall be located no closer than 10 feet to the rear property line and no closer than 10 feet to a side property line.

VARIANCE FINDINGS

KRS 100.243 - Findings necessary for granting a variance:

- (1) Before any variance is granted, the board must find that the granting of the variance will not adversely affect the public health, safety or welfare, will not alter the essential character of the general vicinity, will not cause a hazard or a nuisance to the public, and will not allow an unreasonable circumvention of the requirements of the zoning regulations. In making these findings, the board shall consider whether:
 - (a) The requested variance arises from special circumstances which do not generally apply to land in the general vicinity, or in the same zone;
 - (b) 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 on the applicant; and
 - (c) The circumstances are the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought.
- (2) The board shall deny any request for a variance arising from circumstances that are the result of willful violations of the zoning regulation by the applicant subsequent to the adoption of the zoning regulation from which relief is sought.

MOTIONS

MOTION TO **APPROVE** THE **VARIANCE** REQUEST:

I make the motion to **approve** the request for a five (5) foot variance from the ten (10) foot rear yard setback required for a swimming pool as an accessory use to a residential structure at 517 Atlanta Ct..

The testimony presented in this public hearing has shown that the granting of this variance will not adversely affect the public health, safety or welfare; will not alter the essential character of the general vicinity; will not cause a hazard or a nuisance to the public; and will not allow an unreasonable circumvention of the requirements of the zoning regulations.

OR

MOTION TO **DENY VARIANCE**:

I make the motion to **deny** the request for a five (5) foot variance from the ten (10) foot rear yard setback required for a swimming pool as an accessory use to a residential structure at 517 Atlanta Ct..

Sufficient testimony has **not** been presented in this public hearing that the requested variance meet the criteria set forth in KRS 100.243, "Findings necessary for granting variances," as:

(Choose one or more appropriate finding(s) and specific items)

- **will** adversely affect the public health, safety or welfare.
 - **will** alter the essential character of the general vicinity.
 - **will** cause a hazard or a nuisance to the public
 - **will** allow an unreasonable circumvention of the requirements of the zoning regulations.
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- The proposed development plan does **not** show that the requested variance arises from special circumstances which do not generally apply to land in the general vicinity, or in the same zone;
 - The proposed development plan does **not** show that the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant;
 - The circumstances are the result of willful violations of the zoning regulation by the applicant subsequent to the adoption of the zoning regulation from which relief is sought.