



**THE CITY OF THE VILLAGE OF DOUGLAS
ZONING BOARD OF APPEALS (ZBA) MEETING
TUESDAY, NOVEMBER 28, 2023, AT 7:00 PM
86 W CENTER ST., DOUGLAS MI**

AGENDA

To attend and participate in this remote meeting of the City of the Village of Douglas Planning Commission, please consider joining online or by phone.

Join online by visiting: <https://us02web.zoom.us/j/83108824160>

Join by phone by dialing: +1 (312) 626-6799 | Then enter "Meeting ID": 831 0882 4160

1. **CALL TO ORDER**
2. **ROLL CALL**
3. **APPROVAL OF AGENDA**
 - A. Motion to Approve; ZBA Meeting 11-28-2023. (Roll Call Vote)
4. **APPROVAL OF MINUTES**
 - A. Motion to Approve; ZBA Meeting, 1-10-2023. (Roll Call Vote)
5. **PUBLIC COMMUNICATION - VERBAL (LIMIT OF 3 MINUTES)**
6. **PUBLIC COMMUNICATION - WRITTEN**
7. **NEW BUSINESS**
 - A. Election of Officers, by Majority Vote
 - *Chair*
 - *Vice-Chair*
 - *Secretary*
 - B. Public Hearing and Decision: 611 Campbell Rd. – Dimensional Variance from Section 16.16.6., Setbacks
 - 1) Chairman declares the Public Hearing Open
 - 2) Presentation of Written Communications
 - 3) Presentation by the Petitioner
 - 4) Comments from the Audience/Response from the Petitioner
 - 5) Questions/Comments from the ZBA Members
 - 6) Chairman declares Public Hearing Closed
 - 7) Motion to Approve, Deny, or Approve with Conditions (Roll Call Vote)

8. UNFINISHED BUSINESS
9. REPORTS OF OFFICERS, MEMBERS, COMMITTEES
10. PUBLIC COMMUNICATION – VERBAL (LIMIT OF 5 MINUTES)
11. ADJOURNMENT

Please Note – The City of the Village of Douglas (the “City”) is subject to the requirements of the Americans with Disabilities Act of 1990. Individuals with disabilities who plan to attend this meeting and who require certain accommodations in order to allow them to observe and/or participate in this meeting, or who have questions regarding the accessibility of this meeting or the facilities, are requested to contact Laura Kasper, City Clerk, at (269) 857-1438 ext. 106, or clerk@douglasmi.gov to allow the City to make reasonable accommodations for those persons. CITY OF THE VILLAGE OF DOUGLAS, ALLEGAN COUNTY, MICHIGAN



**THE CITY OF THE VILLAGE OF DOUGLAS
ZONING BOARD OF APPEALS (ZBA) MEETING
TUESDAY, JANUARY 10, 2023, AT 7:00 PM
86 W CENTER ST., DOUGLAS MI**

MINUTES

1. **CALL TO ORDER:** Chair Schumacher called the meeting to order at 7:00 PM

2. **ROLL CALL:** Present – Kutzel, Pullen, Pattison, Schumacher
Absent - North

3. **APPROVAL OF AGENDA**

A. Motion to Approve; ZBA Meeting 1-10-2023.

Motion by Pullen, with support from Pattison, to approve the January 10, 2023, meeting agenda as presented. Motion carried by unanimous roll call vote.

4. **APPROVAL OF MINUTES**

A. Motion to Approve; ZBA Meeting, 7-27-2021.

Motion by Pullen, with support from Kutzel, to approve the July 27, 2021, meeting minutes as presented noting that the bylaw amendments had never occurred. Motion carried by unanimous roll call vote.

5. **PUBLIC COMMUNICATION - VERBAL (LIMIT OF 3 MINUTES):** No verbal communication received.

6. **PUBLIC COMMUNICATION – WRITTEN:** No written communication received.

7. **NEW BUSINESS**

A. Election of Officers, by Majority Vote

Paper ballot votes were cast per City Council request. The ballots were then read out loud to comply with the Open Meetings Act.

	<u>Chair</u>	<u>Vice-Chair</u>	<u>Secretary</u>
Schumacher	Pullen	Kutzel	Schumacher
Pullen	Schumacher	Pullen	Kutzel
Kutzel	Schumacher	Pullen	Kutzel
Pattison	Schumacher	Pullen	Kutzel

Schumacher declared Chair, Pullen declared Vice-Chair, Kutzel declared Secretary of the Zoning Board of Appeals for 2023.

B. Public Hearing and Decision: 9 E. Fremont St. – Dimensional Variance Request

- 1) Chairman Schumacher declared the Public Hearing
- 2) No written communication received.
- 3) Joe Russell spoke on behalf of applicant John Rigas, who due to health reasons has proposed

to convert an existing garage into a bedroom/bath and construct an attached garage at the rear of his property. The home was moved from its Saugatuck location to its current location. Mr. Rigas has met with several elevator companies who stated an elevator was not an option due to the pitch of the roof. He had also looked into a chair lift, but it was determined this would be unsafe for him as the current stairs are narrow and steep.

ZBA members noted although they are sympathetic to the applicant, however, they cannot take someone's medical condition into consideration when making their decision. The 8 Criteria found in Section 29.05 were read along with supporting evidence and findings in meeting or not meeting the criterion, found in Ms. Anderson's report.

Motion by Pullen, with support from Kutzel, to approve the request to grant a variance from Section 6.02 C, Minimum Rear Yard Setback, Neighborhood Conservation District for the purpose of constructing an attached garage at 7' from the rear (south) property line at 9 Fremont, where 25' is required, based on the following findings:

- 1. Practical Difficulty – There are no practical difficulties as it pertains to the physical characteristics of the land that would be considered unique to the subject parcel.*
- 2. Adverse Effects – It is not anticipated that adverse effects would be imposed on nearby properties, however, there are options for a lesser variance.*
- 3. Not Self-Created – The difficulty in meeting the strict letter of the ordinance was created by the applicant when the home was placed in the current location, which does not leave space for any additions (though none were anticipated at the time).*
- 4. Minimum Variance Necessary – Other options appear to be viable that would lessen or avoid the amount of relief needed from the ordinance.*

Motion carried by unanimous roll call vote.

8. UNFINISHED BUSINESS: No unfinished business

9. REPORTS OF OFFICERS, MEMBERS, COMMITTEES:

Members of the ZBA expressed appreciation for the efforts put into this but unfortunately, they have no choice but to deny. This was a difficult decision because of the circumstances. One member suggested looking into an elevator that would be attached outside of the home.

10. PUBLIC COMMUNICATION – VERBAL (LIMIT OF 5 MINUTES): None

11. ADJOURNMENT: Motion by Kutzel, supported by Pullen, to adjourn. Motion carried. (7:50 PM)

Please Note – The City of the Village of Douglas (the "City") is subject to the requirements of the Americans with Disabilities Act of 1990. Individuals with disabilities who plan to attend this meeting and who require certain accommodations in order to allow them to observe and/or participate in this meeting, or who have questions regarding the accessibility of this meeting or the facilities, are requested to contact Pamela Aalderink, City Clerk, at (269) 857-1438, or clerk@douglasmi.gov to allow the City to make reasonable accommodations for those persons. CITY OF THE VILLAGE OF DOUGLAS, ALLEGAN COUNTY, MICHIGAN

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MEMORANDUM

To: City of the Village of Douglas Zoning Board of Appeals
Date: November 13, 2023
From: Tricia Anderson, AICP
RE: 611 Campbell St. – Dimensional Variance Request

Request. Matthew Saleski has submitted an application for a variance, seeking relief from Section 16.16(6) for the purpose of installing a 14' x 22' (308 square feet) below-ground pool within the required front yard. Section 16.16(6) prohibits swimming pools in any required front yard.

Background. The parcel located at 611 Campbell is a 28-acre (12,196 square feet) lot zoned R-2 Residential. The lot is deemed lawfully nonconforming by way of lot width, containing 65' in width, where the current minimum lot width requirement in the R-2 zoning district is 75'. The lot is occupied by two dwelling units, one of which is 1,248 square feet, and the other is 614 square feet, both constructed in the 1930s, as depicted in Figure 1. Presumably, the southern unit was converted from an accessory building to a dwelling unit at some unknown point in time, though no evidence could be found to support this. The two dwelling units located on the subject parcel are commonly known as *Cedar Shores of Douglas Beach* and both are rented seasonally. The applicant is also the owner of the parcel immediately south of the subject parcel. The subject parcel also contains a dedicated parking area for guests, situated at the edge of pavement of Campbell Road. The requests the variance to allow for a pool in the front yard of the northernmost dwelling unit for the enjoyment of the Cedar Shores guests. The reason for the request is due to no other feasible location on the property to place the pool.



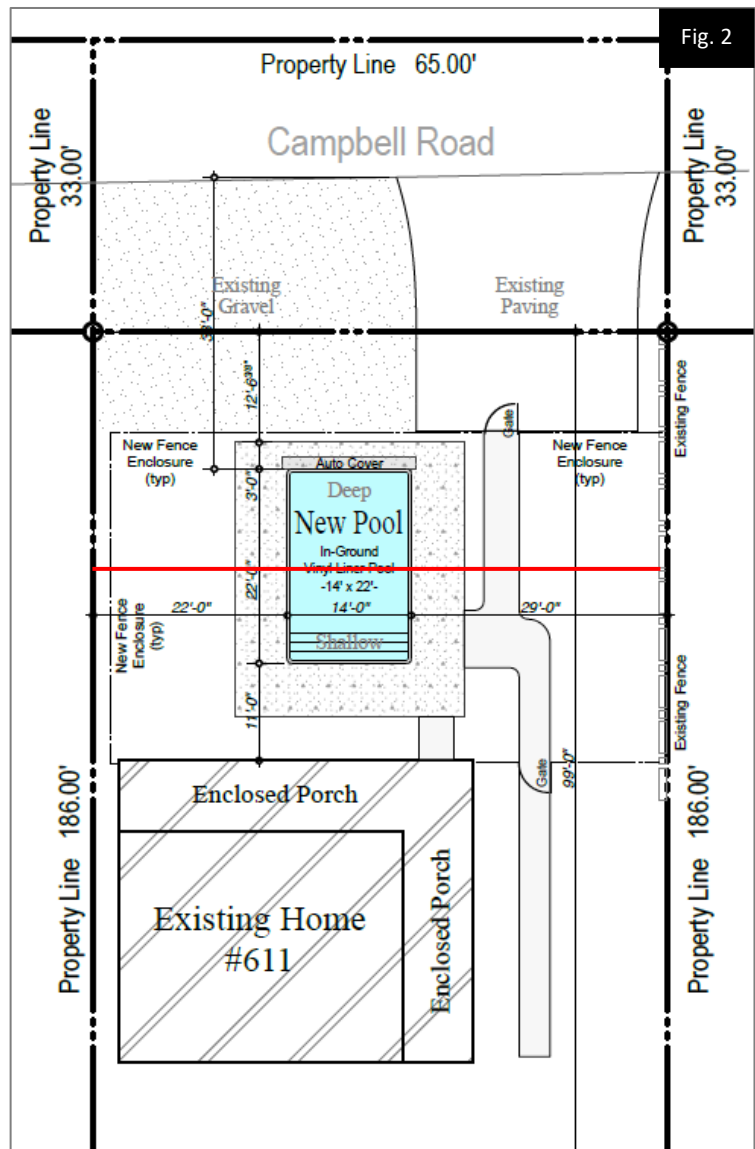
The Zoning Ordinance defines a swimming pool as, “any structure or container located either above or below grade designed to hold water to a depth of greater than twenty-four (24) inches, intended for swimming or bathing”. A swimming pool is also considered an accessory structure since it is an accessory use commonly associated with a principal residential use. Section

16.13, Accessory Uses, Buildings, and Structures indicates in subsection 5, Lot Coverage, that the total area of accessory buildings and structures shall not exceed the ground floor area of the principal building. This subsection excludes swimming pools from the calculation of lot coverage and allows up to 60% of the rear yard to be occupied by accessory structures if the principal building meets applicable side and rear setback standards.

Swimming pools, regulated as accessory structures, are permitted to be situated no closer than 10' to the rear property line, 6' to any existing structure, and no closer than the district side yard setback, which is 7' in R-2, per Section 16.13(2) and (3).

The applicant's request to locate the swimming pool in the front yard is accompanied by a site plan, which depicts the proposed pool in the required front yard, shown in Figure 2. The front property line of this parcel runs to the center of Campbell Road, which means a measurement of 33' from the center of the road toward the subject parcel is the "imaginary line" to which the front yard setback is measured to. This line is generally located just inside the southern edge of the paved and gravel surface parking area (see red line in Figure 2). The pool is proposed to be located at the property line, and shows 22' to the west side property line and 29' to the east side property line. There is a proposed 11' between the pool and the adjacent dwelling unit.

Pre-Hearing Conference. Section 29.05(3) requires that a *pre-hearing conference* be held prior to scheduling a public hearing for the item. This conference took place on October 13, 2023 via the Zoom platform, whereby the requirements of Section 29.05(3) below, were satisfied. The applicant provided a virtual view of the different areas of the property, including spaces that, from an aerial view appear to perhaps be a feasible location for the pool. The applicant was briefed on the procedures and the criteria that must all be met in order for a variance to be granted.



29.05(3) Pre-Hearing Conference:

- a. *Prior to the scheduling of a hearing, the applicant shall contact the Zoning Administrator for the purpose of scheduling a pre-hearing conference with the Zoning Administrator and City Attorney.*
- b. *The purposes of the pre-hearing conference shall be to:*
 - i. *Review the procedure for the hearing and identify all persons who will testify (directly or through affidavit) and the evidence to be offered on behalf of the applicant.*
 - ii. *Attempt to secure a statement of agreed upon facts to be used to narrow the matters of dispute and shorten the hearing.*
 - iii. *Explore a means of providing relief to the applicant by way of non-use variance from the zoning board of appeals, or other relief which may require action by persons or bodies other than the zoning board of appeals which will afford an adequate remedy for the applicant.*
 - iv. *Discuss the need, desirability, and the terms of providing, a verbatim record of the hearing*
- c. *The Zoning Administrator shall determine who should be present at the pre-hearing conference based upon the application submitted, and taking into consideration the discussion with the applicant or the applicant's representative.*
- d. *The pre-hearing conference shall be scheduled and conducted on an expeditious basis so as to avoid unreasonable delay to the applicant. Sufficient time shall be taken, however, to achieve the purposes of the pre-hearing conference, stated above.*

Criteria for Granting Variances: Section 29.05. The Zoning Board of Appeals, in their review of the variance request, will consider whether the following criteria are met. These criteria are listed below, along with our remarks:

- 1) *Nonuse variances. The Zoning Board of Appeals shall have the power to authorize specific variances from site development requirements such as lot area and width regulations, building height and bulk regulations, yard width and depth regulations and off-street parking and loading space requirements of this Ordinance, provided that all the required findings listed below are met and the record of proceedings of the Zoning Board of Appeals contains evidence supporting each conclusion.*
 - a) *That there are **practical difficulties** that prevent carrying out the strict letter of this Ordinance. These practical difficulties shall not be deemed economic, but shall be evaluated in terms of the use of a particular parcel of land.*

Remarks: The land use on the subject parcel is dedicated to two dwelling units being utilized as short-term rentals. The southernmost unit covers a large portion of the rear yard that would otherwise be suitable for locating a swimming pool. Due to the configuration of the buildings, the applicant is significantly limited in open space available to place a swimming pool. Figure 3 depicts a potential location for a pool in the rear yard, however, the 10' rear yard setback and the 6' setback from the adjacent structure would need to be met. Based on information provided by the applicant, this location does not appear to be feasible because of the limited space in this area.



This criterion may be met upon additional information being submitted for review. The applicant may need to submit a survey which provides additional dimensions to determine if a pool can be located in the rear in accordance with the 10' rear yard setback, 7' side yard setbacks and the 6' setback from the existing dwelling unit.

- b) *That a genuine practical difficulty exists because of **unique circumstances** or physical conditions such as narrowness, shallowness, shape, or topography of the property involved, or to the intended use of the property, that do not generally apply to other property or uses in the same zoning district, and shall not be recurrent in nature.*

Remarks: The practical difficulty in meeting the letter of the ordinance is related to both the parcel's substandard width and the siting of the dwellings on the lot. The 65' width of the subject parcel appears to be somewhat narrower than the majority of existing lots in the general vicinity and along Campbell Road.

This criterion appears to be met.

- c) *That the practical difficulty or special conditions or circumstances do not result from the **actions of the applicant.***

Remarks: The applicant purchased the property recently and the buildings have been situated in their current locations since the 1930's, according to the assessor's records, and the lot width is not substandard due to any affirmative action on behalf of the applicant.

This criterion appears to be met.

- d) That the variance will relate **only to property** under control of the applicant.

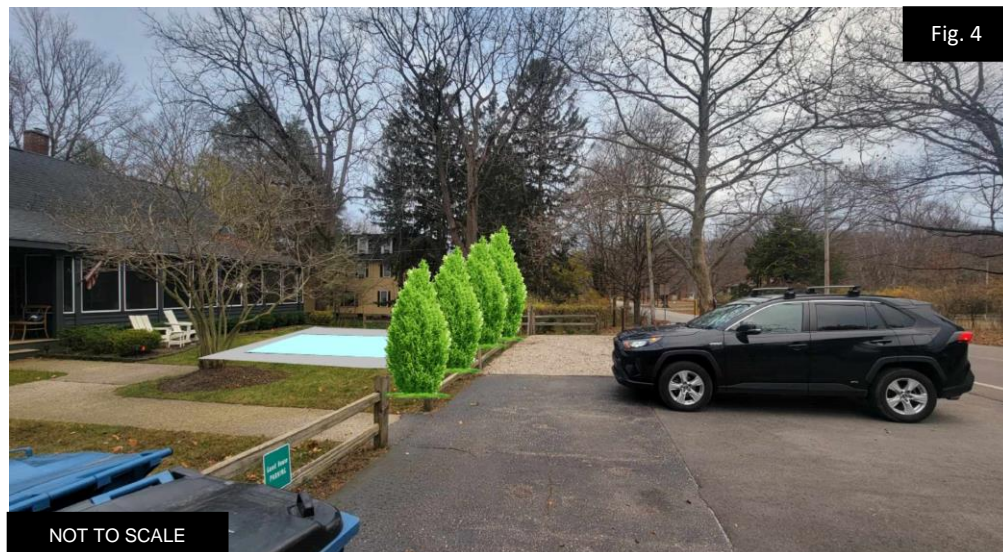
Remarks: The requested variance only relates to the property in which the proposed swimming pool is planned.

This criterion appears to be met.

- e) That the variance will be **in harmony with the general purpose and intent of this Ordinance** and will not cause a substantial adverse effect upon surrounding property, property values, and the use and enjoyment of property in the neighborhood or district. **If a lesser variance would give substantial relief and be more consistent with justice to others it shall be so decided.**

Remarks: The variance, as requested, is not likely to pose any adverse effects on the surrounding property. During pre-application conference, the discussion around other locations that would meet setbacks concluded that the proposed front yard location is the only feasible location, according to the applicant.

If a variance could be granted for the proposed pool to occupy the rear yard if the setbacks could not be met, this would be the “lesser variance”. However, the Zoning Board of Appeals granted a variance in 2012 to 823 Campbell, under similar circumstances, therefore, granting a variance for the proposed location would be more consistent with justice to others.



Any potential for adverse effects on adjacent properties may be mitigated by the addition of some screening vegetation (as shown in Figure 4).

This criterion may be met with the addition of vegetation along the north edge of the pool.

- f) *That strict compliance with area, setbacks, frontage, height, bulk or density would unreasonably prevent the owner from using the property for a permitted purpose, or would **render conformity unnecessarily burdensome.***

Remarks: It is our view that this criterion applies only to the request for a use variance.

This criterion is not applicable.

- g) *That the variance requested is **the minimum amount necessary to overcome the inequality inherent in the particular property or mitigate the hardship.***

Remarks: As noted in part e above, the minimum amount necessary to overcome the inequality (which, in this case, is being afforded the right to an accessory use commonly enjoyed by several property owners in the general vicinity), would be to allow a pool in the rear yard, which is likely to not meet the setbacks and a variance would need to be sought. However, in this case, the being afforded the right to enjoy a swimming pool *in the front yard* becomes the inequality when taking into account the similar circumstances around the variance that was granted to allow the pool in the front yard at 823 Campbell Road.

This criterion may be met.

- h) *That the variance shall not permit the establishment, within a district, of any use which is not permitted by right within that zoning district, or any use for which a Special Use Permit or a temporary permit is required except where failing to do so would result in a constitutional taking for which compensation would otherwise have to be paid because the application of existing regulations do not permit a reasonable use of land under existing common law or statutory standards. In this case, the appellant shall first have sought and been denied a rezoning, Special Use Permit approval, and/or a PUD approval and shall have their variance request processed according to the requirements of Section 29.05 (2).*

Remarks: This criterion is not applicable, as it pertains to land use variances.

This criterion is not applicable.

Final Thoughts. The applicant should be aware that a water main may be located in the front yard in the area where the pool is proposed. A survey should be conducted to avoid any conflict with the connection line to the water main if the variance is granted and the pool can be constructed.

Recommendation and Summary of Findings. At the November 28, 2023 meeting, the Zoning Board of Appeals should carefully consider the findings in this report, comments made by the public, and any new and compelling information brought forth by the applicant. Our findings

would indicate that precedence may have been set by granting the variance under similar circumstances at 823 Campbell, as well as the potential for each criterion above to be met. Again, *all the criteria outlined in section 29.05 must be met* in order for a variance to be granted. A summary of findings along with a suggested motion is provided below:

Suggested Motion:

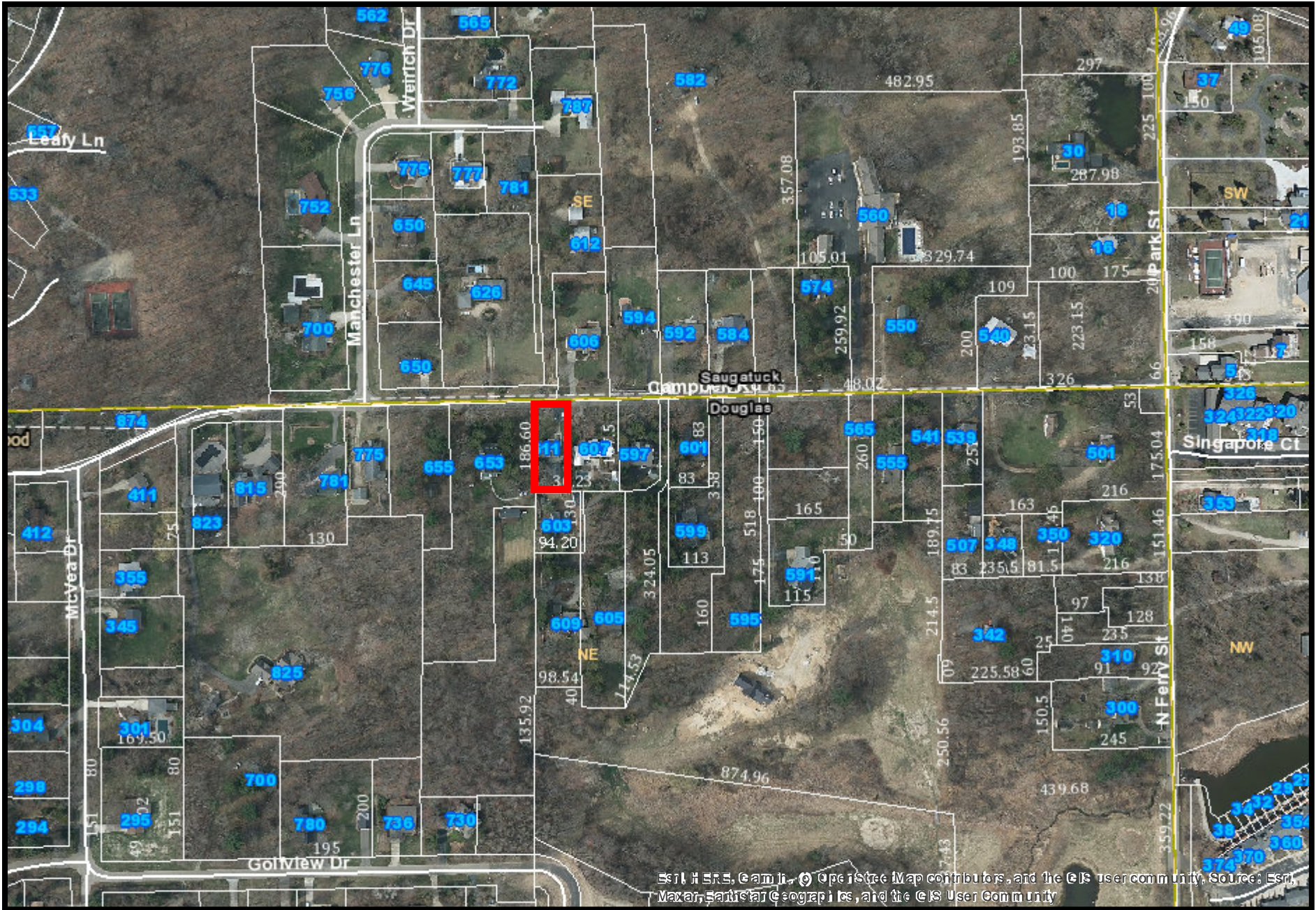
I move to [approve/deny/table] the request to grant a variance from Section 16.16 (6), Swimming Pool Placement, R-2 Residential District, to construct a swimming pool in the front yard of the parcel located at 611 Campbell Road, based on the following findings:

1. Practical Difficulty – There are no practical difficulties as it pertains to the physical characteristics of the land that would be considered unique to the subject parcel.
2. Unique Circumstances – The substandard lot width is considered a unique circumstance that contributes to the practical difficulty in meeting the letter of the ordinance.
3. Adverse Effects – It is not anticipated that adverse effects would be imposed on nearby properties due to a swimming pool in the front yard, provided some vegetation is added to screen the view of the pool.
4. Not Self-Created – The difficulty in meeting the strict letter of the ordinance was not created by the applicant, as the configuration of the dwellings on the lot have been in existence since the 1930's.
5. Minimum Variance Necessary – Other options do not appear to be viable that would lessen or avoid the amount of relief needed from the ordinance or to rectify the inequality created by the variance that was granted at 823 Campbell for a pool in the front yard.

If the Zoning Board is inclined to grant the requested variance, it is recommended that it be subject to the following conditions:

1. The applicant shall provide 4-6 evergreen plantings with a height of 6' along the north edge of the swimming pool, prior to the issuance of occupancy being granted for use of the pool.
2. The applicant shall construct the pool in accordance with the site plan submitted with this application.
3. The applicant shall apply for a zoning permit prior to making any alteration to the land in preparation for the pool to be installed.

Please feel free to reach out with any questions related to this issue.



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General Location Map - 611 Campbell

1 inch = 376 feet
Map Printed: 11/21/2023

Allegan County GIS Services assumes no liability for the conclusions drawn from the use of these data.

611 CAMPBELL RD DOUGLAS, MI 49406 (Property Address)

Parcel Number: 59-017-010-00

Property Owner: CEDAR SHORES OF DOUGLAS BEACH LLC

Summary Information

- > Residential Building Summary
 - Year Built: 1937
 - Full Baths: 3
 - Sq. Feet: 1,862
 - Bedrooms: 4
 - Half Baths: 0
 - Acres: 0.279
- > Assessed Value: \$280,400 | Taxable Value: \$231,317
- > Property Tax information found

Owner and Taxpayer Information

Owner CEDAR SHORES OF DOUGLAS BEACH LLC
 PO BOX 9090
 DOUGLAS, MI 49406 **Taxpayer** SEE OWNER INFORMATION

General Information for Tax Year 2023

Property Class	401 RESIDENTIAL-IMPROVED	Unit	59 DOUGLAS CITY
School District	SAUGATUCK PUBLIC SCHOOLS	Assessed Value	\$280,400
MAP #	73	Taxable Value	\$231,317
ACTION	0	State Equalized Value	\$280,400
USER ALPHA 1	Not Available	Date of Last Name Change	09/15/2023
USER ALPHA 3	Not Available	Notes	Not Available
Historical District	No	Census Block Group	No Data to Display
ADDESS CHANGE	Not Available	Exemption	No Data to Display

Principal Residence Exemption Information

Homestead Date 10/03/2017

Principal Residence Exemption	June 1st	Final
2023	100.0000 %	-
2022	100.0000 %	100.0000 %

Previous Year Information

Year	MBOR Assessed	Final SEV	Final Taxable
2022	\$249,700	\$249,700	\$220,302
2021	\$242,000	\$242,000	\$213,265
2020	\$223,600	\$223,600	\$210,321

Land Information

Zoning Code	R-2 RESIDENTIAL	Total Acres	0.279
Land Value	\$130,000	Land Improvements	\$10,996
Renaissance Zone	No	Renaissance Zone Expiration Date	No Data to Display
ECF Neighborhood	DOUGLAS NORTHWEST	Mortgage Code	No Data to Display
Lot Dimensions/Comments	No Data to Display	Neighborhood Enterprise Zone	No

Lot(s)	Frontage	Depth
Lot 1	65.00 ft	187.00 ft
Total Frontage: 65.00 ft		Average Depth: 187.00 ft

Legal Description

COM AT NE COR TH W 1242.23' TO POB TH S 186.60' TH W 65' TH N 186.60' TH E 65' TO POB SEC 17 T3N R16W (2014).

Sale History

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Sale Date	Sale Price	Instrument	Grantor	Grantee	Terms of Sale	Liber/Page
09/01/2023	\$0.00	WD	DI BARTOLOMEO BRIAN & SALESKI MATT	SALESKI MATTHEW	21-NOT USED/OTHER	4886/595
08/03/2023	\$0.00	WD	SALESKI MATTHEW	CEDAR SHORES OF DOUGLAS BEACH LLC	21-NOT USED/OTHER	4886/598
02/24/2023	\$800,000.00	WD	WILLIAMS RICHARD & KINDEL CHRISTIAN	DI BARTOLOMEO BRIAN & SALESKI MATT	03-ARM'S LENGTH	4840/81
10/03/2017	\$429,500.00	WD	KOPER REGINA M & CORY J	WILLIAMS RICHARD & KINDEL CHRISTIAN	03-ARM'S LENGTH	4187/105
10/23/1997	\$0.00	WD	MAIN ROBERT G-KISH ROBERT	KOPER COREY & REGINA	16-LC PAYOFF	1685/127
02/24/1995	\$85,000.00	WD	MAIN ROBERT G		03-ARM'S LENGTH	1508/192

Building Information - 1248 sq ft 1.5 STORY (Residential)

General

Floor Area	1,248 sq ft	Estimated TCV	\$289,313
Garage Area	0 sq ft	Basement Area	0 sq ft
Foundation Size	832 sq ft		
Year Built	1937	Year Remodeled	No Data to Display
Occupancy	Single Family	Class	B +5
Effective Age	29 yrs	Tri-Level	No
Percent Complete	100%	Heat	Forced Heat & Cool
AC w/Separate Ducts	No	Wood Stove Add-on	No
Basement Rooms	0	Water	Public Water
1st Floor Rooms	0	Sewer	Public Sewer
2nd Floor Rooms	0	Style	1.5 STORY
Bedrooms	3		

Area Detail - Basic Building Areas

Height	Foundation	Exterior	Area	Heated
1.5 Story	Slab	Siding	832 sq ft	1.5 Story

Exterior Information

Brick Veneer	0 sq ft	Stone Veneer	0 sq ft
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Basement Finish

Recreation	0 sq ft	Recreation % Good	0%
Living Area	0 sq ft	Living Area % Good	0%
Walk Out Doors	0	No Concrete Floor Area	0 sq ft

Plumbing Information

3 Fixture Bath	2
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Built-In Information

Appliance Allow.	1
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Porch Information

WGEP (1 Story)	256 sq ft	Foundation	Standard
WCP (1 Story)	224 sq ft	Foundation	Standard

Building Information - 614 sq ft RANCH (Residential)

General

Floor Area	614 sq ft	Estimated TCV	\$130,517
Garage Area	0 sq ft	Basement Area	0 sq ft
Foundation Size	614 sq ft		
Year Built	1930	Year Remodeled	No Data to Display
Occupancy	Single Family	Class	BC
Effective Age	24 yrs	Tri-Level	No
Percent Complete	0%	Heat	Forced Air w/ Ducts
		Wood Stove Add-on	No
		Water	Public Water
1st Floor Rooms	0	Sewer	Public Sewer

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2nd Floor Rooms	0	Style	RANCH
Bedrooms	1		

Area Detail - Basic Building Areas

Height	Foundation	Exterior	Area	Heated
1 Story	Slab	Siding	614 sq ft	1 Story

Exterior Information

Brick Veneer	0 sq ft	Stone Veneer	0 sq ft
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Basement Finish

Recreation	0 sq ft	Recreation % Good	0%
Living Area	0 sq ft	Living Area % Good	0%
Walk Out Doors	0	No Concrete Floor Area	0 sq ft

Plumbing Information

3 Fixture Bath	1
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Built-In Information

Appliance Allow.	1
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Porch Information

CGEP (1 Story)	108 sq ft	Foundation	Standard
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Deck Information

Treated Wood	90 sq ft
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CITY OF THE VILLAGE OF DOUGLAS

ZONING BOARD OF APPEALS REQUEST FOR VARIANCES APPLICATION

86 W. CENTER STREET, DOUGLAS, MI 49406
Phone: 269-857-1438 FAX: 269-857-4751

\$500.00 Fee Required (Article 29 Zoning Board of Appeals)

APPLICANT INFORMATION *(If different than owner)*

Name Matthew Saleski Email msaleski@gmail.com
Address 611 Campbell RD
Phone # 312-806-0918 Fax # _____

OWNER INFORMATION

Name Matthew Saleski Email _____
Address 603 Campbell Rd
Phone # _____ Fax # _____

PROPERTY INFORMATION

Address or Location 611 Campbell rd
Permanent Parcel # _____
Zone District (Current) R-2 (Proposed) R-2
Property Size 0.28 acres *(If Applicable)*

Describe Variance Request _____

_____ We want to install an in-ground pool, but the existing configuration of our property only allows for one to be placed in the front yard. There is precedence for this setup- at 823 Campbell Rd. _____

I hereby attest that the information on this application form is, to the best of my knowledge, true and accurate.

Matthew Saleski
Signature of Applicant and Owner *(If different than applicant)*

Oct 18, 2023
Date

I hereby grant permission for members of the Douglas Planning Commission, Board of Appeals and/or City Council to enter the above described property (or as described in the attached) for the purpose of gathering information related to this application/request/proposal.

Owner's Signature

Date

DO NOT WRITE IN THIS BOX

Date Received _____ Application Accepted By _____ Fee Paid \$ _____
Submitted Materials: _____ Site Plan _____ Application _____ Legal Description _____ Narrative Description

For Office Use Only

REMARKS

Other (Where Applicable):

Plans sent to Saugatuck Fire District on: _____

Approved on: _____

Planning Commission Review on: _____

Minutes attached: _____

Zoning Board of Appeals Review on: _____

Minutes attached: _____

Faxed to KLWSA (269-857-1565) on: _____

ZONING APPROVAL

APPROVED: _____

By: _____ Date: _____

Zoning Administrator

DENIED: _____

By: _____ Date: _____

Zoning Administrator

KLSWA APPROVAL

APPROVED FOR CONNECTION TO WATER/WASTEWATER SYSTEM

(Subject to appropriate connection fees and charges)

Street and Number _____

KALAMAZOO LAKE SEWER AND WATER AUTHORITY

APPROVED

Date: _____ By: _____

DENIED

Date: _____ By: _____

**CITY OF THE VILLAGE OF DOUGLAS
ZONING BOARD OF APPEALS
REQUEST FOR VARIANCES
APPLICANT SUMMARY OF FACTS**

Adopted 6/27/05

1. Date of application _____
2. Name of applicant (or authorized agent) _____
3. Address of applicant _____
4. Telephone (Home) _____ (Business) _____
5. Address of property in question _____
6. Legal description and/or property description number

7. Present zoning and use of property _____
8. Present zoning and use of adjacent properties _____

9. State variance requested and reference Article 29 (Zoning Board of Appeals) and Sub-
Section 29.05 (!) variances and 29.05 (2). _____

10. Attach ten (10) copies of a current property survey together with accompanying site plan delineating property lines, proposed construction/setbacks, as well as any other information that may assist the Zoning Board of Appeals.
11. Due to public notice requirements, applications must be received no less than twenty one (21) days prior to the scheduled meeting date, however the Chairman retains the right to schedule meetings based upon the adequacy of the information received.

12. I have read/reviewed the Douglas Zoning Ordinance in regard to the Zoning Board of Appeals (Article 29) and the requirements for a Variance, and hereby give the Zoning Board of Appeals permission to examine the property in question.

In order for the Zoning Board of Appeals to grant a variance a "practical difficulty" must exist. The "practical difficulty" must not be self created, must not be economic, and must not adversely affect the neighborhood. If you are requesting a non-use variance please answer the following 5 questions in order to verify the conditions for a variance exist.

Question 1 - Zoning Ordinance Section 29.05 a)

Please list the practical difficulties which prevent carrying out the strict letter of the Ordinance. These practical difficulties shall not be deemed economic, but shall be evaluated in terms of the use of a particular parcel of land.

In accordance with the Zoning Ordinance Section 29.05 a), I am providing the practical difficulties that prevent the strict adherence to the current ordinance, with a focus on the use of the specific parcel of land at 611 Campbell Rd, Douglas, Michigan. The challenges are as follows: In accordance with the Zoning Ordinance Section 29.05 a), I am providing the practical difficulties that prevent the strict adherence to the current ordinance, with a focus on the use of the specific parcel of land at 611 Campbell Rd, Douglas, Michigan. The challenges are as follows:

Property Configuration and Orientation: The specific orientation and configuration of the property at 611 Campbell Rd, in relation to the neighboring properties, limit the options for pool placement and adherence to setback regulations. The presence of the existing structures and landscaping in the front yard creates a practical difficulty in adhering to the strict requirements outlined in the Ordinance. The only viable solution is the front yard, again, the same setup as [823 Campbell Rd](#).

Question 2: - Zoning Ordinance Section 29.05 b) Please list the genuine practical difficulty that exists because of unique circumstances or physical conditions such as narrowness, shallowness, shape, or topography of the property involved that do not generally apply to other property or uses in the same zoning district

Spatial Constraints: The limited size and configuration of the back yard at 611 Campbell Rd leaves no viable space for the installation of an in-ground pool without encroaching on required setbacks. This spatial limitation, coupled with the existing landscape features, restricts the feasibility of conforming to the strict letter of the Ordinance regarding pool placement and setbacks. Therefore, the only buildable area is the front yard, which mirrors the same setup as our west neighbors at [823 Campbell](#), who have the same set up, and installed a front yard in-ground pool

Topographical Challenges: The unique topographical layout of the side and back yards at 611 Campbell Rd presents grading and drainage challenges, making it impractical to conform strictly to the Ordinance requirements for in-ground pool installation. The current topographical conditions necessitate adjustments to the placement and design of the pool to ensure proper water drainage and safety standards, and the front yard is the only reasonable

Question 3 -Zoning Ordinance Section 29.05 c) Please verify that the practical difficulty or special conditions or circumstances that are due to no fault of your own.

I affirm that these practical difficulties are not self-created or economically motivated. Furthermore, any proposed modifications or adjustments to the current Ordinance will not have an adverse effect on the neighborhood, and measures will be taken to ensure compliance with safety and aesthetic standards.

Question 4 – Zoning Ordinance Section 29.05 e)

Please verify that the variance will be in harmony with the general purpose and intent of this Ordinance and will not cause a substantial adverse effect upon surrounding property, property values, and the use and enjoyment of property in the neighborhood.

Measures will be taken to ensure compliance with safety and aesthetic standards.

Question 5 – Zoning Ordinance Section 29.05 g)

Please verify that the variance requested is the minimum amount necessary to overcome the inequality inherent in the particular property or to mitigate the hardship.

This request is the minimum amount necessary to overcome the inequality and match the variance that apparently exists at 823 Campbell Rd.

Applicant's Signature _____
(please specify owner or agent)

\$500.00 Application Fee enclosed/attached _____

City of the Village of Douglas use only

Date application received _____

Date to be reviewed by the Zoning Board of Appeals _____

Variance: Approved _____ Denied _____ Approved with conditions as follows:

Dated _____ By _____

Clerk and/or Zoning Administrator



Guest House
PARKING

86 W. Center Street
PO Box 757
Douglas, MI 49406
269-857-1438 Office
269-857-4751 Fax



Memo

To: Zoning Board of Appeals
From: Ryan Kilpatrick, AICP
Director Community Development
Date: March 23, 2012
Re: Request for Variance: 823 Campbell

This memo is regarding two separate issues pertaining to the same zoning request submitted by Mr. George Holmes and pertaining to property parcel 03-59-400-001-00 in the Macke Subdivision just east of McVea Drive.

The existing property is located in the R-2 Residential District. The property has 80 feet of frontage along Campbell Road and has 240 feet of frontage along Brian Drive, with a total lot area of 19,200 square feet. The property is occupied by an existing single family home and accessory building.

The minimum development requirements in the R-2 District are as follows:

DEVELOPMENT REQUIREMENTS Section 5.02 R-2 (Neighborhood Conservation) District:

	Required	Proposed
Lot Area:	7,920 sq. ft.	19,200 sq ft
Frontage:	75 ft	80 ft
Setbacks:		
Front:	35 ft	58 ft min
Side:	7ft/18ft total	17ft/36ft total min
Rear:	25ft	25ft min
Max Lot Coverage:	35%	35% max
Height:	28 ft.	28 ft. max

Request: The applicant has requested a permit to install a swimming pool within the front yard of a single family home. The proposed pool would meet all required setback requirements, including the front yard setback requirement of 35 feet of separation from the front property line.

Matters before the Zoning Board of Appeals:

Upon initial review of the application for a swimming pool within the front yard, it was determined that this was not allowable location for the pool. Section 16.13 clearly prohibits accessory

buildings from being located within the front yard. However, after further investigation of the zoning ordinance, it became less clear that this particular standard would be applicable.

The matters before the zoning board of appeals are two-fold:

First, the ZBA will be asked to interpret the language currently in the zoning ordinance to determine whether or not a zoning permit can be issued administratively and without a variance to accommodate an in ground swimming pool within the front yard.

Second, if the ZBA determines that a zoning permit cannot be issued administratively, the ZBA will be asked to consider an application for variance on the subject property. The application for variance has been properly noticed and the surrounding land owners (within 300 feet) have been notified.

Background:

The applicant has proposed to install an in ground swimming pool within the front yard which would be in compliance with all required setback requirements of the underlying zoning district. The proposed pool would be, at a minimum, 38 feet from the front lot line, 19 feet from the east property line (side) and 28 feet from the west property line (side). The pool, as illustrated, would be required to meet all standards of Section 16.16 and the State building code.

Upon initiating the staff review of this request for variance, it was discovered that this particular case is perhaps more ripe for an interpretational appeal than it is for a request for variance. Several issues come into play and are as follows:

- 1) **Accessory Use, Building or Structure – definition:** Article 2 of the Zoning ordinance defines an Accessory Use as *“A use, building or structure which is clearly incidental to, not attached to, customarily found in connection with, devoted exclusively to, subordinate to, and located on the same lot as the principal use to which it is attached.”*
- 2) **Building – definition:** Article 2 of the Zoning ordinance defines a building as *“Any structure, either temporary or permanent, having a roof supported by columns, walls or any other supports, which is used for the purpose of housing, sheltering, storing, or enclosing persons, animals, or personal property, or carrying on business activities. This definition includes but is not limited to: mobile homes, tents, sheds, garages, greenhouses, and other accessory structures.”*
- 3) **Front Yard – definition:** Article 2 of the Zoning ordinance defines a front yard as the *“open space extending the full width of the lot, the depth of which is the minimum horizontal distance between the front lot line and the nearest point of the foundation of the principal building.”*
- 4) **Structure – definition:** Article 2 of the Zoning ordinance defines a structure as: *“Anything constructed or erected, the use of which requires a permanent location on the ground or*

attachment to something having a permanent location on the ground; excepting anything lawfully in a public right of way... items such as a driveway, seawall, or retaining wall are not considered a structure.”

5) **Section 16.13 (7):** *“Buildings accessory to principal buildings shall not be erected in the front yard.”*

6) **Section 16.16 (5):** *“No swimming pool shall be located in any required front yard”*

As the Zoning Administrator, I was initially inclined to deny the applicant’s request due to the language in Section 16.13, which prohibits accessory buildings within the front yard. However, I later discovered that the term *building* and the term *structure* have separate definitions and, while the pool may be considered a structure, it does not meet the definition of a building. Further, Section 16.16 prohibits swimming pools from being located within the *required* front yard. I had some question about the intent of this statement.

The Zoning Board of Appeals is asked to interpret the existing language within the zoning ordinance in order to establish a clear answer to the following:

- 1) Does a swimming pool more appropriately meet the definition of a building or a structure?
- 2) If an in ground swimming pool most closely meets the definition of a structure, would the front yard prohibition found within Section 16.13 be applicable?
- 3) Do the standards of Section 16.16 limit a swimming pool from being located in any portion of a front yard? Or does this limitation apply only to the front yard setback?

Request for Variance

If the Zoning Board of Appeals finds that a swimming pool is not permitted to be located in any portion of the front yard, a request for variance should then be considered.

Standards of Review:

Section 29.05 of the Douglas Zoning Ordinance provides eight standards by which all applications for non-use variances must be reviewed. These are as follows:

Section 29.05 Variances,

1) *Non-use variances. The Zoning Board of Appeals shall have the power to authorize specific variances from site development requirements such as lot area and width regulations, building height and bulk regulations, yard width and depth regulations and off-street parking and loading space requirements of this Ordinance, provided that all of the required findings listed below are met and the record of proceedings of the Zoning Board of Appeals contains evidence supporting each conclusion.*

- a) *“That there are practical difficulties that prevent carrying out the strict letter of this Ordinance. These practical difficulties shall not be deemed economic, but shall be evaluated in terms of the use of a particular parcel of land.”*

Staff Comments: This standard does not appear to have been met. Although it is clear that the area between the road right of way and the garage currently located on this lot may be of greatest preference to applicant, the inability to place a swimming pool in that particular location does prevent the property owner from using the land for the purpose in which it was intended.

- b) *“That a genuine practical difficulty exists because of unique circumstances or physical conditions such as narrowness, shallowness, shape, or topography of the property involved, or to the intended use of the property, that do not generally apply to other property or uses in the same zoning district, and shall not be recurrent in nature.”*

Staff Comments:

- c) *“That the practical difficulty or special conditions or circumstances do no result from the actions of the applicant.”*

Staff Comments: It appears that any difficulty in siting a swimming pool on this particular site has arisen as a result of the initial siting of the existing home and garage. Both of these are due to actions taken by the property owner (either current or previous).

- d) *“That the variance will relate only to property under control of the applicant.”*

Staff Comments: This particular request for variance could have broad reaching implications. In any other instance in which a relatively deep lot exists with adequate space between the setback requirement and buildings on site, there may be additional requests for a similar variance.

- e) *“That the variance will be in harmony with the general purpose and intent of this Ordinance and will not cause a substantial adverse effect upon surrounding property, property values, and the use and enjoyment of property in the neighborhood or district. If a lesser variance would give substantial relief and be more consistent with justice to others it shall be so decided.”*

Staff Comments: The applicant is not proposing a concept which is out of character with the surrounding land uses. The only issue for discussion would be the relative uniqueness of a swimming pool located in front of a home.

- f) *“That strict compliance with area, setbacks, frontage, height, bulk or density would unreasonably prevent the owner from using the property for a permitted purpose, or would render conformity unnecessarily burdensome.”*

Staff Comments: This standard does not appear to have been met. The current property owner is not prevented from using the site as a single family home and garage.

- g) *“That the variance requested is the minimum amount necessary to overcome the inequality inherent in the particular property or mitigate the hardship.”*

Staff Comments: This particular situation does not appear to allow for a lesser variance. Either the swimming pool is permitted in front of the home or it is not.

- h) *“That the variance shall not permit the establishment, within a district, of any use which is not permitted by right within that zoning district, or any use for which a Special Use Permit or temporary permit is required...”*

Staff Comments: Swimming pools are typically a permitted accessory use to a residential home within the R-2 District.

Staff Recommendation: It is recommended that the Zoning Board of Appeals first deal with the interpretation of the existing language within the zoning ordinance to deal with the proposed swimming pool in the front yard. Depending upon the determination, a recommendation to the Planning Commission to revise one or more sections of the zoning ordinance for clarity may be appropriate.

If the Zoning Board of Appeals finds that an in ground swimming pool is not permissible under the existing standards of the zoning ordinance the standards of review for a variance must be thoroughly considered. At this time, it is recommended that a request for variance be denied due to the failure of the applicant to meet the requirements of Section 29.05, specifically subsections 1a, 1b, 1c, 1d, and 1f.

**THE CITY OF THE VILLAGE OF DOUGLAS
ZONING BOARD OF APPEALS (ZBA)
DOUGLAS CITY HALL
86 W. CENTER STREET, DOUGLAS, MI
MARCH 27, 2012 – 7:00 P.M.
Draft Minutes**

1. **Call to Order:** Chair Schumacher called the meeting to order at 7:02 PM
2. **Roll Call:** Members present- Greenwood, Pullen, Kutzel, Schumacher, Urquhart. Members absent – None. Also present – Ryan Kilpatrick, Community Economic Director. George Holmes, applicant.
3. **Approval of Minutes:**
 - A. September 27, 2011
Motion by Pullen, with support from Kutzel, to approve the minutes of September 27, 2012 as presented. Motion carried by roll call vote.
4. **Agenda Changes/Additions/Deletions:**
 - A. March 27, 2012 Agenda
Motion by Urquhart, with support from Greenwood, to approve the agenda of March 27, 2012 as presented. Motion carried by voice vote.
5. **New Business:**
 - A. Public Hearing – 823 Campbell Rd. (pp#59-400-001-0). Request for variance from Section 16.13 (7), front yard prohibition against accessory buildings in the front yard. The existing property is a single family home and accessory building located in the R2 Residential District, has 80’ of frontage along Campbell Rd. and has 240’ of frontage along Brian Drive (total of 19,200 square feet total lot area).
Kilpatrick requested ZBA interpretation of the existing language within the zoning ordinance which deals with the proposed swimming pool in the front yard.
Chair Schumacher called the public hearing open at 7:10 P.M. The applicant was present to answer questions.
ZBA discussion: Accessory Use, Building or Structure definition, Building definition, Front Yard definition, Structure definition, Section 16.13 (7), and Section 16.16 (5). Further areas of discussion were the meaning of the word ‘*required*’ front yard as it pertains to swimming pools located in front yard areas. Members meticulously reviewed Standards of Review: Section 29.05. Chair Schumacher asked if members would like to consider obtaining the opinion of the city attorney. Chair Schumacher called the public hearing closed at 8:10 P.M.
Motion by Urquhart, with support from Kutzel, that ZBA finds the placement of a pool in the front yard in any district is prohibited and would require a variance.
Chair Schumacher called for a roll call vote:
Urquhart – yes. Kutzel – yes. Pullen – yes. Schumacher – no. Greenwood – no.

Motion carried 3-2 by roll call vote.

Chair Schumacher asked the applicant if he would like to proceed with the variance request. Chair opened the public hearing at 8:10 P.M. Variance request for property located at 823 Campbell Rd. a variance from Section 16.13 (7), front yard prohibition against accessory buildings in the front yard.

Mr. Holmes, property owner, stated the hardship is a lack of an alternative place within the setbacks to place the pool.

ZBA discussion: The uniqueness of situation, the home was built, with approval of the Village, behind an existing structure and members do not see this as a reoccurring issue. The property owner has had contact with the neighbors. No written comments were received. Members reviewed and discussed the Standards.

Motion by Urquhart to approve a variance from Section 16.13 (Front Yard Prohibition) at 823 Campbell (property #03-59-400-001-00) to allow an in-ground swimming pool as illustrated in the attached plan, to be located in front of the existing single family home and garage/barn on the property. Approval is conditioned upon compliance with all required setbacks and development standards of the R-2 Zoning District as well as review and approval of landscape and fencing by the zoning administrator.

Findings of fact:

Section 29.05 Variances

- a) **Practical difficulty arises from placement of historic barn on the property.**
- b) **The barn on site is placed 84 feet from the road right of way and bisects the property. The home was situated on the site in a delicate placement within some sensitive topography; and area which would not have been suitable for a pool**
- c) **Practical difficulty is historic and topographic in nature and not the responsibility of the property owner.**
- d) **Adjacent property owners were contacted and made aware of the proposal and did not express any displeasure or concerns.**
- e) **Proposed setback from the right of way of greater than the required front yard setback of the underlying zoning ordinance as well as proposed landscaping and fencing will be compatible with the surrounding neighborhood.**
- f) **Not applicable. All setback requirements and development standards will be met.**
- g) **Proposed variance is the minimum amount necessary.**
- h) **Proposed variance pertains to a use that is permitted by right in the R-2 Zoning District**

Discussion:

Greenwood addressed the points that were not met by the Zoning Administrator and asked if they still remain objections. Kilpatrick stated the board did a good job evaluating the standards and no patterns or precedence was established.

Schumacher suggested this issue could be reviewed in future reviews of the ordinance.

6. Reports:

A. Kutzel offered to deliver the packets to members, suggesting this be part of the acting secretary's duties. Members agreed.

7. **Adjourn:**

Motion by Urquhart, supported by Greenwood, to adjourn the meeting. Motion carried by voice vote. 9:00 P.M.