



# Department of Planning, Housing, & Community Development

**Mayor, Matthew T. Ryan**  
Director, Tarik Abdelazim

## ***STAFF REPORT***

TO: Zoning Board of Appeals Members  
FROM: Planning Staff  
DATE: May 28, 2013  
SUBJECT: 25 Esther Avenue; Area Variance  
TAX ID #: 160.74-2-16  
CASE: 2013-12  
COPIES: B. Seachrist, T. Costello, L. Webb (District 6), E. & B. Skiadis, File

### **A. REVIEW REQUESTED**

Ernest and Barbara Skiadis have submitted an application for an area variance of Minimum Side Setback to permit an above ground pool located approximately 2.5 feet from the western property line of the subject property.

The zoning code requirement for minimum side setback in the R-1 District is 5 feet. The applicant's above ground pool is located approximately 2.5 feet from the property line, and therefore, has applied for an area variance for minimum side setback from the Zoning Board of Appeals.

	Proposed	Required	Variance Requested
Minimum Side Setback	2.5 feet	5 feet	2.5 feet

In granting an area variance, the Zoning Board of Appeals must weigh the benefit to the applicant if the variance is granted against the detriment to the health, safety, and welfare of the neighborhood or community by such a grant. The following must also be considered:

- (a). **Undesirable change**: Whether an undesirable change will be produced in the character of the neighborhood, or whether a detriment to nearby properties will be created;
- (b). **Reasonable alternative**: Whether the Applicant can achieve his goals via a reasonable alternative that does not involve the necessity of an area variance;
- (c). **Substantial request**: Whether the variance requested is substantial;
- (d). **Physical and Environmental Conditions**: Whether the requested variance will have an adverse

impact on the physical or environmental conditions in the neighborhood or district;

- (e). ***Self-created hardship***: Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Zoning Board of Appeals, but shall not necessarily preclude the granting of the area variance.

The Zoning Board of Appeals, in granting an area variance, shall grant the minimum variance that it shall deem necessary and adequate, and at the same time preserve and protect the character of the neighborhood and the health, safety, and welfare of the community.

## **B. ADDITIONAL REVIEWS**

None

## **C. SITE REVIEW**

The property known as 25 Esther Avenue is a corner property with 50 feet of frontage along Esther Avenue and 106 feet of frontage along Evelyn Place. A two-story home is located in the center of the lot. An asphalt driveway is located on the eastern side of the house that leads to a one-car garage. There is a deck off the rear of the house that leads to a pool in the back-yard. The remainder of the lot is landscaped with grass, shrubs, and trees. Land use along Esther Avenue, McNamara Avenue to the north, Clarence Street to the south, and Evelyn Place to the east consists primarily of single-family homes.

## **D. PREVIOUS ZONING BOARD & PLANNING COMMISSION ACTIVITY**

25 Esther Avenue: In 2007, Ernest and Barbara Skiadis received approval from the ZBA for an area variance of minimum side setback to permit an addition to the primary structure at the property.

## **E. ENVIRONMENTAL IMPACT**

The applicant's proposal is a SEQR **TYPE II** Action. The Planning Commission may be the lead agency to determine any environmental significance.

1. Motion to determine what type of action:
  - a. Type I
  - b. Type II**
  - c. Unlisted
2. Determine Lead Agency and other involved agencies.
3. Motion to schedule a public hearing.
4. After the Public Hearing, Determination of Significance based on:

Existing air quality, surface or groundwater quality or quantity, noise levels, existing traffic pattern, solid waste production or disposal, potential for erosion, drainage or flooding problems?	Aesthetic, agricultural, archaeological, historic or other natural or cultural resources; or community or neighborhood character?	Vegetation of fauna, fish, shellfish, or wildlife species, significant habitats, or threatened or endangered species?	A community's existing plans or goals as officially adopted, or a change in use or intensity of use of land or other natural resources?	Growth, subsequent development, or related activities likely to be induced by the proposed action?	Long term, short term, cumulative, or other effects not identified in C1-C5?	Other impacts (including changes in use of either quantity or type of energy)?

**F. STAFF FINDINGS**

1. The Zoning Board of Appeals must determine if the requested variance will produce an undesirable change in the character of the neighborhood.
2. The Zoning Board of Appeals must determine if there are any reasonable alternatives to the proposed variances.
3. The Zoning Board of Appeals must determine if the requested area variance is substantial.
4. The Zoning Board of Appeals must determine whether the alleged difficulty was self created.

**I. ENCLOSURES**

Enclosed is a copy of the submitted site plan, site photos and application.

Sincerely,

Patrick C. Day  
Planner

Enclosures