Resolution of the County Board of
Kankakee County, Illinois

RE: ZBA CASE #18-12; VARIANCE TO SECTION 121-281.C (SWIMMING POOL IN THE SIDE YARD) IN THE A1-AGRICULTURE DISTRICT

WHEREAS, an application pursuant to the terms of the Kankakee County Zoning Ordinance, has been filed by Homestar Land Trust #920, property owner and applicant in the Office of the County Clerk of Kankakee County for a Variance to Section 121.281.c (Swimming Pool in the Side Yard), in the A1-Agriculturel District on a parcel legally described herein Exhibit A, a copy of which is attached; and,

WHEREAS, the Zoning Board of Appeals held a duly noticed public hearing, on the application on April 16, 2018 and from the testimony and evidence presented findings were made as described in Exhibit B, a copy is attached and the ZBA recommends that the request of Homestar Land Trust #920, property owner and applicants, be approved; and,

WHEREAS, the Planning, Zoning, and Agriculture Committee (PZA), at its regularly scheduled and duly noticed meeting of April 18, 2018, having reviewed, discussed and considered the matter, has approved the request and adopted the findings and recommendation of the Zoning Board of Appeals, Exhibit B; and,

WHEREAS, all mailers required by law of the State of Illinois and the Zoning Ordinance of Kankakee County have been completed; and,

WHEREAS, the County Board at its regularly scheduled meeting of May 8, 2018 after review, discussion, and consideration, agrees with the findings of the Zoning Board of Appeals and committee minutes of the PZA Committee, and finds that the conclusions expressed are both reasonable and rationally supported by the evidence presented, and the variance will not be detrimental to the public health, safety, and economic and general welfare.

NOW, THEREFORE, be it resolved by the Kankakee County Board, State of Illinois as follows:

1. The findings of the Zoning Board of Appeals are hereby approved, confirmed, ratified, and adopted and the conclusions of the Planning, Zoning and Agriculture Committee based upon those findings are rational and in the public interest.

2. The findings, conclusions and recommendation expressed in the minutes of the Planning, Zoning, and Agriculture Committee meeting of April 18, 2018 are also
supported by the record and are in the public interest and are also approved, confirmed, ratified and adopted.

3. Variance to Section 121.281.c (Swimming Pool in the Side Yard), in the A1-Agriculture District be approved on a parcel legally described in Exhibit A, a copy of which is attached herein and made a part hereof.

PASSED and adopted this 8th day of May 2018.

Andrew H. Wheeler, County Board Chairman

ATTEST:

Dan Hendrickson, County Clerk
LEGAL DESCRIPTION:
COMMENCING AT A CROSS IN THE PAVEMENT OF S.B.I. HIGHWAY ROUTE 113 NORTH WHERE THE SAME INTERSECTS THE EAST LINE OF LOT 47 OF THE SHAW-WAW-NAS-SEE RESERVATION IN TOWNSHIP 31 AND 32 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN, RUNNING THENCE SOUTH 2 DEGREES 30 MINUTES EAST ALONG THE EAST LINE OF SAID LOT 690.4 FEET TO A PIPE, SAID POINT TO BE KNOWN AS THE POINT OF BEGINNING OF THIS DESCRIPTION; THENCE CONTINUE SOUTH ALONG SAID EAST LINE OF SAID LOT 47 TO A PIPE 1320 FEET SOUTH OF A MARK IN THE PAVEMENT AFORESAID, THENCE NORTH 40 DEGREES 50 MINUTES WEST 646 FEET TO A PIPE, THENCE NORTH 69 DEGREES 3 MINUTES EAST 393 FEET TO A PIPE, THENCE EAST 30 FEET TO A POINT OF BEGINNING, ALSO A PERPETUAL NON-EXCLUSIVE EASEMENT OVER A STRIP OF LAND 30 FEET WIDE LYING NORTH OF SAID TRACT AND ADJACENT THERETO AND IMMEDIATELY WEST OF THE EAST LINE OF SAID LOT 47 EXTENDING FROM THE NORTH LINE OF THE TRACT ABOVE DESCRIBED TO THE CENTER OF THE PAVEMENT BEFORE MENTIONED, TO BE USED IN CONNECTION WITH THE OWNERS OF LAND LYING NORTH OF THE TRACT HERE IN FIRST DESCRIBED ADJACENT TO SAID TRACT AND TO THE WEST SIDE THEREOF, ALL IN KANKAKEE COUNTY, ILLINOIS.
EXHIBIT B (ZBA CASE#18-12)

Kankakee County Zoning Board of Appeals

Mr. John Fetherling, Chairman 189 East Court Street
Kankakee, IL 60901
(815) 937-2940

FINDINGS OF FACT AND RECOMMENDATION
OF THE KANKAKEE COUNTY ZONING BOARD OF APPEALS

This is the findings of fact and the recommendation of the Kankakee County Zoning Board of Appeals concerning an application from property owner and applicant, Homestar Land Trust #920, in ZBA Case No. 18-12. The applicant and owner, Homestar Land Trust is requesting a variance to Section 121-281.c to permit the construction of an in-ground swimming pool in the side yard of their residence located at 4776A W. Route 102 in Bourbonnais Illinois. The property is zoned A1-Agriculture. According to the zoning ordinance, swimming pools are only permitted in the rear yard. However, the configuration of the property coupled with the natural topography combine to create a hardship for the owner which is unique to this property.

After due notice required by law, the Zoning Board of Appeals held a public hearing on this case on April 16, 2018 in the County Board Room, 4th Floor, Kankakee County Administration Building, Kankakee, Illinois, and hereby report their findings of fact and their recommendation as follows:

Site Information: See Staff Report (attached herewith).

Public Comments: There were no objectors present. (See transcripts)

Analysis of Four Standards: After considering all the evidence and testimony presented at the public hearing, the Board makes the following analysis of the four (4) standards listed in Section 17.03.G5 (Standards for Variances) of the Kankakee County Zoning Ordinance that must all be found in the affirmative prior to recommending granting of the petition.

1. That a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the letter of the regulations were to be carried out.

The Board finds that the owner wishes to build an in-ground swimming pool, spa, and patio. Code requires me to build in my back yard only. Unfortunately, my back yard is only 12 feet in width before falling 10 feet into a creek. Therefore, it is impossible to site the pool in the back yard.

2. That the conditions for this request are unique to the property in question and would not apply, generally, to other property with the same zoning classification.

The Board finds that there is literally no other pool site available other than the west side yard except in the front yard, which is obviously
unacceptable both to the County and us.

3. That the granting of the variance would not be detrimental to the public welfare or injurious to the property or improvements in the neighborhood in which the property is located.

The Board finds that the 2.95 acres upon which I reside are surrounded on three sides by the Kankakee River State Park from which vision is prevented by dense vegetation for over 90% of the lot lines. The only lot lines not adjacent to the park are parcels I own. No neighbors are visible to me or I to them.

4. That the variance will not impair an adequate supply of light and air to adjacent property, substantially increase the congestion of the public street, increase the danger of fire, endanger the public safety, or substantially diminish or impair property values within the neighborhood.

The Board finds that the illumination of three trees on my property to allow the pool to be built will increase light and air. There is no public street in view of the property. From the Park road, the upper part of our house is visible but the side yard is not because of the dense foliage along the Park boundary. The danger of fire is minimal with residential pools. The public safety will be protected by my following all of the safety (and all other) County Regulations and by using only contractors licensed by the County. Normally the addition of an in-ground pool would add to the value of neighboring properties, but in this case, it will probably have no effect as they are too far away and not in sight of the proposed pool site.

Recommendation: We find that the proposed variances does meet all the standards for recommending granting as found in Section 17.03.G5 of the Kankakee County Zoning Ordinance and that such request is in the public interest. Therefore, the Zoning Board of Appeals hereby recommends that the variance regarding the construction of an in-ground swimming pool in the side yard of the above mentioned property hereby be granted.

Roll Call Vote: The roll call vote was five (5) members for the motion to recommend approval, zero (0) opposed.

Respectfully submitted this 16th day of April, 2018 by the Kankakee County Zoning Board of Appeals.

John Fetherling, Chairman – Aye
Gene Rademacher – Aye
Edwin Meents – Aye
William Hemm-Aye
Elizabeth Scanlon – Absent
David DeYoung – Aye
William Sawyer - Absent

Exhibit A – Location Map, Bourbonnais Township
ZBA CASE 18-12

STAFF REPORT

Homestar Land Trust #920 (Owners & Applicants)
Variance 121-281.c (Accessory Structure Location)
P.I. No. 17-08-04-300-004
Bourbonnais Township

Kankakee County Planning Department
189 E. Court Street, Room 201
Kankakee, IL 60901
Phone: 815-937-2940 Fax: 815-937-2974
Email: planning@k3county.net

Prepared By: Delbert Skimerhorn, Sr., AICP, GISP, Planner / GIS Specialist
ZBA Case 18-12

Background

The applicant and owner, Homestar Land Trust is requesting a variance to Section 121-281.6 to permit the construction of an in-ground swimming pool in the side yard of their residence located at 4776A W. Route 102 in Bourbonnais Illinois. The property is zoned AL-Agriculture. According to the zoning ordinance, swimming pools are only permitted in the rear yard. However, the configuration of the property coupled with the natural topography combine to create a hardship for the owner which is unique to this property.

An aerial photograph of the general area can be seen on the left.

Finding of Fact Responses - Variance

The following sections highlight the Petitioner's responses to the findings and the Planning Department's comments for the proposed variance:

A. WOULD PARTICULAR HARDSHIP TO THE OWNER RESULT, AS DISTINGUISHED FROM A MERE INCONVENIENCE, IF THE LETTER OF THE REGULATIONS WERE TO BE CARVED OUT, I.E., BECAUSE OF THE PARTICULAR EXISTING USE, PHYSICAL SURROUNDINGS, SHAPE OR TOPOGRAPHICAL CONDITIONS OF THE PROPERTY IN QUESTION.

Petitioner's Response: I wish to build an in-ground swimming pool, spa, and patio. Code requires me to build in my back yard only. Unfortunately, my back yard is only 12 feet in width before falling 10 feet into a creek. Therefore, it is impossible to site the pool in the back yard.

Planning Department Analysis:

Staff agrees that a hardship exists on the property. The parcel is an irregularly shaped lot in the form of a triangle. The rear yard is one of the point of that triangle. The home, when constructed, was setback a large distance from the front property line which limits the size of the backyard. In addition, the topography of the rear yard is steep due to a ravine that runs through the area causing a 10' drop in elevation. These conditions combine to create a hardship that is unique to this property.

B. HOW ARE THE CONDITIONS FOR THIS REQUEST UNIQUE TO THE PROPERTY IN QUESTION THAT WOULD NOT APPLY, GENERALLY, TO OTHER PROPERTY WITH THE SAME ZONING CLASSIFICATION?

Petitioner's Response: There is literally no other pool site available other than the west side yard except in the front yard, which is obviously unacceptable both to the County and us.
As stated previously, the topography, configuration at the parcel, and location of the home within that parcel combine to create a unique situation on this parcel that would not necessarily be found on other parcels in this zoning district.

C. Will the granting of the variance be detrimental to the public welfare or injurious to the property or improvements in the neighborhood in which the property is located?

Petitioner's Response: "The 2.95 acres upon which I reside are surrounded on three sides by the Kankakee River State Park from which vision is prevented by dense vegetation for over 90% of the lot lines. The only lot lines not adjacent to the park are parcels I own. No neighbors are visible to me or I to them."

Planning Department Analysis:

The eastern and western lot lines of the triangle are surrounded by dense woodlands that provide a natural barrier for those gazing at the property. The only other home in close proximity to the subject site is located due north and is over 450' away.

D. Will the variance impair an adequate supply of light and air to adjacent property, substantially increase the congestion of the public street, increase the danger of fire, endanger the public safety, or substantially diminish or impair property values within the neighborhood?

Petitioner's Response: "Impairments:

1. The illumination of three trees on my property to allow the pool to be built will increase light and air.
2. There is no public street in view of the property. From the Park road, the upper part of our house is visible but the side yard is not because of the dense foliage along the Park boundary.
3. The danger of fire is minimal with residential pools.
4. The public safety will be protected by my following all of the safety (and all other) County Regulations and by using only contractors licensed by the County."

Planning Department Analysis:

Staff concurs with the petitioner.
1. Reference:
   - Hearing Date: April 16, 2018
   - Applicant's Name: Homestar Land Trust #920
   - Land Owner's Name: Same
   - Legal Counsel: Gregg Deck

2. Location:
   - Property Location: 4776A W. Rt. 102, Bourbonnais, IL
   - Township: Bourbonnais Township, 17-08-04-300-004
   - 911 Address: 4776A W. Rt. 102, Bourbonnais, IL
   - Existing Land Use: Residential
   - Existing Zoning: A1—Agriculture
   - Applicant Request: Variance—Swimming Pool Location

3. Dimensions:
   - Size of Parcel: 2.95 acres
   - Road Frontage: Irregular
   - Parcel Depth: Irregular
   - Parcel History: Original Lot of Record

4. Existing Land Use Features:
   - Public Road: Illinois Route 102
   - Floodplain: None
   - Wetland: None

5. Surrounding Zoning:
   - North: A1—Agriculture
   - West: PL—Public Lands
   - South: PL—Public Lands
   - East: PL—Public Lands

6. Surrounding Land Use:
   - North: Agriculture
   - West: Park
   - South: Park
   - East: Park

7. Municipal Planning Boundary:
   - Nearest Municipality: Bourbonnais
   - Distance: 3.5 miles

8. Comprehensive Plan Designation:
   - Kankakee County: Agricultural Conservation Area
   - Municipality: N/A
   - Township: N/A

9. Distance to Public Services and Facilities:
   - Police Protection: Kankakee County — 11 miles.
   - Fire Protection: Bourbonnais Township - 5 miles.
   - Sewer: KRMA— 3 Miles,
   - Collector Road: Illinois Route 102

10. Miscellaneous Information:
    - County Board District: Twenty Eight (28) - Mr. Liehr.