

**BOARD OF ZONING & BUILDING APPEALS  
CITY OF AVON  
MEETING MINUTES FOR FEBRUARY 1, 2023**

**ROLL CALL**

The meeting was called to order by Chairman Ladegaard at 7:00 p.m. in Council Chambers.

Present: Michael Bulger, Bill Hricovec, Mark Ladegaard, Chauncey Miller, Kurt Schatschneider

Staff: Jill Clements, Zoning Enforcement Officer; John Gasior, Law Director; Duane Streator, Safety Director

Absent: Pam Fechter, Planning Coordinator; Nicole Rambo-Ackerman, Planning Clerk

**REVIEW & CORRECTION OF MINUTES**

**Mr. Miller moved, seconded by Mr. Schatschneider, to dispense with the reading of the minutes of the regular meeting held on January 4, 2023, and to approve the minutes as published. The vote was: "AYES" all. The Chair declared the motion passed.**

**REPORTS & CORRESPONDENCE**

**ADDITIONS & DELETIONS**

**APPEALS & REQUESTS**

**1. Astrit Hajdari; 2441 Muirwood Road; 72-22**

Representatives: Alma Hajdari, wife, 2441 Muirwood Road, Avon, OH; Keith Mitchell, 35531 Royalton Road, Grafton, OH; Indrit Sulaj, 3057 Fairview Drive, Avon, OH

Proposal consists of an inground swimming pool.

The following variances are requested:

1. A 5 ft. rear yard setback variance for an inground swimming pool; code requires 10 ft.; applicant proposes 5 ft., Section 1478.03.
2. A 5 ft. rear yard setback for concrete to be installed up to property line; code requires 5 ft., applicant proposes 0 ft., Section 1262.08(c)(1).
3. A 5 ft. side yard setback variance for equipment pad to be installed up to property line; code requires 5 ft., applicant proposes 0 ft., Section 1262.08(c)(1).

Notes: A variance was granted for a 5 ft. rear yard setback for the inground pool on January 5, 2022 and applicant requested a one-year extension December 12, 2022. A 105 sq. ft. variance was granted for the pavilion November 3, 2021.

Ms. Hajdari was sworn in. Ms. Hajdari is seeking renewal of the variance to have the east side of the pool five feet from the property line because the contractor was unable to install the pool before the previous approval expired. On the east side of the pool, they are requesting concrete from the edge of the pool to the property line as a safety issue and to be helpful when they use the pool. The concrete on the south side of the shed is proposed to store the pool equipment. Mr. Ladegaard confirmed that the variance for the pool setback was granted in January 2022 so it did expire. Mr. Ladegaard thought installing the concrete up to the property lines in the other two requests was a little excessive. Mr. Schatschneider asked if the applicant would entertain a four-foot setback from the rear property line. Ms. Hajdari said it could go shorter but she thought five feet would help more when kids are playing. Mr. Schatschneider thought there should be the same dimension from the back of the shed to the rear and side property lines. Ms. Hajdari wanted the equipment on the side of the shed so it would be out of

the way but it could be put behind the shed. Mr. Schatschneider thought putting the equipment behind the shed would make it not visible by the neighbors or from the street. Right now, it is proposed in an open area between their property and their neighbors' property. Ms. Hajdari said they would install a six-foot fence up to the property line so the equipment would not be visible. Ms. Hajdari said there was quite a bit of a difference because of the power lines and trees behind her house. They are trying to utilize their space in a way that is convenient for their family and aesthetically pleasing. Mr. Hricovec said he was not at the January 2022 meeting. He asked why the pool was proposed so far back. Ms. Hajdari said they already have a patio. The pool requires a certain amount of space and they are trying to utilize their back yard. Mr. Hricovec thought if they could move the pool toward the house and south with the shed on the other side, then the variances would not be needed. Ms. Hajdari agreed but explained that there is a certain space needed from the kitchen. Mr. Hricovec agreed that the equipment could be installed behind the shed so it was not visible. Ms. Hajdari said they want to install the equipment on the side of the shed since the space would not be utilized when the fence is put in. Mr. Hricovec asked how much space would be between the pool and the bar, Ms. Hajdari said it would be about ten feet. An unidentified audience member pointed out that it would be nine feet, eight inches.

Mr. Mitchell was sworn in. Mr. Mitchell said drainage is required. The wall has already been built with footers and the water from the patio needs to go somewhere. Mr. Mitchell added that the applicant has already paid for most of the work so they need to make it work. Mr. Ladegaard asked if the equipment could be installed behind the shed. Mr. Mitchell said the space was similar but the applicants wanted to store some items behind the shed since they only have a two-car garage. He did not think anyone would see the equipment with the six-foot fence and gates installed. Mr. Ladegaard asked if the equipment could be installed in a three-foot space, Mr. Mitchell said he could do that. There would be seven feet on one side, six feet on another and four feet on another side. Mr. Mitchell said there is a weed-filled mound on the back and thought they could install the concrete up to it. He said it was up to the Board and realized they would not want to grant the variance for everyone in the neighborhood.

Mr. Hricovec thought moving the pool further away from the house would be more difficult to install since it would be higher on a hill. Mr. Mitchell said moving the pool closer would eliminate some of the concrete around the pool. Mr. Ladegaard asked if the shed is five feet off the property line, Ms. Hajdari said it was. Mr. Gasior asked if the HOA has approved the plans, Ms. Hajdari said they have. Mr. Ladegaard said the HOA submitted a letter saying they have an issue with the applicant encroaching on their space in the back, Ms. Clements provided a copy to the applicant. Ms. Clements noted the HOA approved the pool when the initial variance was applied for. Mr. Mitchell thought the letter from the HOA was kind of ridiculous because it was the same as encroaching on a weed patch in no-man's land. Mr. Mitchell said if he owned the space, it would be perfectly manicured, but he does not think the HOA takes care of it. Mr. Schatschneider believed it was designated as a conservation area and Mr. Mitchell thought that was a shame. Ms. Hajdari said they are trying to maintain the area because they did not want the weeds to become overgrown and an eyesore. She thought it was nice to plant the trees when they purchased the home because it was good for the environment. Mr. Mitchell pointed out that the HOA was upset they installed the trees without their approval. Ms. Clements said the issue of the trees being planted is between the applicants and the HOA and the Board is concerned about what is on the applicants' property at this time.

**Mr. Hricovec moved, seconded by Mr. Miller, to approve the request for the following variance for Astrit Hajdari; 2441 Muirwood Road; 72-22:**

- 1. A 5 ft. rear yard setback variance for an inground swimming pool; code requires 10 ft.; applicant proposes 5 ft., Section 1478.03.**

**The vote was: 2 "AYES" and 3 "NAYS". Mr. Bulger and Mr. Ladegaard voted "AYE". The Chair declared the motion denied.**

After the vote for the first variance was taken, Mr. Ladegaard asked if the other variances should be voted on. Mr. Gasior said the Board could vote on them even though it was safe to assume they would not be granted. At this time, Mr. Sulaj was sworn in. Mr. Sulaj explained that he is Ms. Hajdari's brother and he has a degree in civil engineering. He asked what the reason behind the denied vote was because there are requirements in the code. He asked if it was impacting the environment or neighbors. Mr. Miller thought the request was too excessive and thought the pool could be installed closer to the house. Mr. Mitchell asked if Mr. Miller would like the pool to be installed in the middle of the space. Mr. Miller said it would be ten feet with five feet of concrete but thought they could compromise and make it closer to the fence. Mr. Mitchell asked if it would work if the pool was six feet off the property line so the concrete would be one foot off the property line. Mr. Miller thought it would be better than what they voted on. Mr. Mitchell asked the applicant if that would work so the fence could go in the ground and not in the pavement which would make the space feel bigger. Ms. Hajdari said that would be fine. Mr. Hricovec confirmed they would be proposing eight feet, eight inches between the pool and the wall, Mr. Mitchell said that was correct. Mr. Schatschneider thought they should make the concrete four feet wide instead of five feet. Ms. Hajdari confirmed that the pool was initially approved for five feet but now it would be six feet. Mr. Schatschneider pointed out that only three of the Board members present at the meeting were at the first meeting. Ms. Hajdari restated that she wants to utilize their space and there in no neighbor behind them. Mr. Hricovec thought the email should be taken into consideration and thought it would be a compromise. Ms. Clements explained that the previous variance granted expired and the applicant is starting a new application in a sense. Mr. Schatschneider had an issue with the applicants' requesting variances for everything in their back yard. Ms. Hajdari said they want to do everything to code but they want to maximize their back yard for their family to enjoy time together. She thought the improvement to the property would benefit her neighbors too. Mr. Gasior noted that the applicant's property is not big enough for everything they want to put on it. He thought that whoever wrote the code did not want all of that on a property that size and if they had, they would have written the code differently. Mr. Gasior thought the only thing in the applicants' favor was that they are up against the HOA property and it is in a conservation easement which is not supposed to be disturbed.

**Mr. Hricovec moved, seconded by Mr. Schatschneider, to reconsider the request for the following variance for Astrit Hajdari; 2441 Muirwood Road; 72-22:**

- 1. A 5 ft. rear yard setback variance for an inground swimming pool; code requires 10 ft.; applicant proposes 5 ft., Section 1478.03.**

**The vote was: "AYES" all. The Chair declared the motion passed.**

**Mr. Miller moved, seconded by Mr. Hricovec, to approve the request for the following variance for Astrit Hajdari; 2441 Muirwood Road; 72-22, as amended:**

- 1. A 4 ft. rear yard setback variance for an inground swimming pool; code requires 10 ft.; applicant proposes 6 ft., Section 1478.03.**

**The vote was: "AYES" all. The Chair declared the motion passed.**

Mr. Ladegaard thought the variance request for the concrete setback would be three feet with the concrete installed two feet off the property line. Consensus was reached that if the pool is six feet from the property line and the concrete would be four feet wide, then the variance request would be three feet for a two-foot setback.

**Mr. Bulger moved, seconded by Mr. Schatschneider, to approve the request for the following variance for Astrit Hajdari; 2441 Muirwood Road; 72-22, as amended:**

- 2. A 3 ft. rear yard setback for concrete to be installed up to property line; code requires 5 ft., applicant proposes 2 ft., Section 1262.08(c)(1).**

**The vote was: “AYES” all. The Chair declared the motion passed.**

Before voting on the last variance request, Mr. Ladegaard asked if the applicant wanted to install the mechanicals on the side of the shed or behind it, Ms. Hajdari said on the side. Mr. Ladegaard said they would vote on a variance of three feet to match the previously approved dimension as discussed.

**Mr. Hricovec moved, seconded by Mr. Miller, to approve the request for the following variance for Astrit Hajdari; 2441 Muirwood Road; 72-22, as amended:**

**3. A 3 ft. side yard setback variance for equipment pad to be installed up to property line; code requires 2 ft., applicant proposes 0 ft., Section 1262.08(c)(1).**

**The vote was: 3 “AYES” and 2 “NAYS”. Mr. Hricovec and Mr. Schatschneider voted “NAY”.  
The Chair declared the motion passed.**

## **COMMENTS**

### **Miscellaneous Items**

Mr. Ladegaard thanked Mr. Streator and the City for the shirts and jackets the Board members received. He also wished Mr. Schatschneider and Mr. Bulger happy birthday.

## **ADJOURN**

**Mr. Bulger moved, seconded by Mr. Hricovec, to adjourn the meeting at 7:39 p.m. The vote was: “AYES” all. The Chair declared the motion passed.**

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Mark Ladegaard, Chair

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Nicole Rambo-Ackerman, Clerk

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Date