

**CITY OF LAKE SAINT LOUIS  
BOARD OF ADJUSTMENT  
MEETING AND PUBLIC HEARING  
FEBRUARY 18, 2021  
JOURNAL AND MINUTES**

The Board of Adjustment hearing for the City of Lake Saint Louis, Missouri was held by video and teleconference only, via Zoom, regular session and for a public hearing on Thursday, February 18, 2021, at 5:00 p.m.

**ROLL CALL:**

Mark Peterson, Chairman, presided over the meeting. The members present were: Benjamin Borengasser, Thomas Bach, and Diane Mispagel. Absent: Robert Carrothers. Also present were: Louis Clayton, Director of Community Development; Harry M. (Mark) Murray, IV, Board Attorney; Brenda Cueller, Community Development Assistant; and Debbie Burris, Certified Court Reporter.

**APPROVAL OF AGENDA: February 18, 2021**

Thomas Bach made a motion to approve the Board of Adjustment agenda as submitted. The motion was seconded by Diane Mispagel and passed unanimously.

**THE AGENDA FOR THE FEBRUARY 18, 2021 BOARD OF ADJUSTMENT HEARING STANDS APPROVED AS SUBMITTED.**

**MINUTES FROM: January 21, 2021 Board of Adjustment Hearing**

Thomas Bach made a motion to waive the reading of the minutes from the January 21, 2020 hearing and approve same as submitted. The motion was seconded by Diane Mispagel and passed unanimously.

**THE MINUTES FROM THE JANUARY 21, 2021 BOARD OF ADJUSTMENT HEARING STAND APPROVED AS SUBMITTED.**

**PUBLIC HEARING:**

- 1. 16 Harbor Point Court – Lot 14 Harbor Point Estates Subdivision**  
Consideration of an appeal submitted by Steve Baker, applicant/property owner, for a 184-square-foot variance from the 1,980-square-foot maximum area permitted to be contained within a pool barrier (Section 430.470.J.5).

Mark Murray, Board Attorney, asked the applicant if he would like to proceed with the hearing because there were only four members present instead of five informing the applicant that the vote would have to be approved unanimously or

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he could request the hearing be continued. Mr. Baker said he was made aware of this and wanted to continue.

Mark Murray, Board Attorney, presented the following items to be entered into the record. The items accepted, marked, and entered into evidence were:

- Exhibit 1 – Lake Saint Louis City Code
- Exhibit 2 – The Board of Adjustment Application submitted by the Applicant.
- Exhibit 3 – Board of Adjustment Staff Report dated February 18, 2021 for 16 Harbor Point Court prepared by Louis Clayton, Director of Community Development.
- Exhibit 4 – Quit Claim Deed recorded in Book 6651, Page 1234 of the St. Charles County Records conveying the Property to Applicant.
- Exhibit 5 – Baker Residence drawing depicting the pool area prepared by Blue Haven Pools.

Steve Baker was sworn in and testified that he came before the Board of Adjustment last year regarding the construction of a retaining wall, pool, and fence. The City Code restricts the amount allowed for a pool fence area to enclose, which may not exceed four times the size of the surface area of the pool. Mr. Baker was seeking a variance of an additional 565 square feet from the maximum size of 1,980 square feet for the pool fence area. The Board denied the variance request. Mr. Baker testified he did receive a permit to construct a pool fence that was in compliance with the Code. Mr. Baker testified that the retaining wall had to be built first before construction of the fence. The City did an inspection on the completed pool and pool fence area. The completed pool fence area was a different size than the approved plans. The fenced area around the pool was 2,164 square feet, 184 square feet too large. Mr. Baker testified he is applying for a variance to allow the additional 184 square feet of fenced area.

Mr. Baker testified one of the workers during construction fell off the retaining wall injuring his wrist. He had the contractor put up a safety fence around the perimeter of the pool. Mr. Baker testified his contractor did not build the fence according to the approved plans. Mr. Baker said he did some research of what the Board has granted in the past regarding variances that were 5-times the allowable fencing. He said 19 Royale Court and 1035 Pleasant Meadow Drive had approvals which were larger than the permissible size and briefly stated the reasoning for approval.

The Board discussed the limits of a fence around a pool. They questioned if the applicant submitted a plan that was compliant to the Code requirement.

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Louis Clayton, Director of Community Development, was sworn in and testified the applicant submitted revised pool and fence/pool area barrier plans in compliance to the Code and was issued a building permit on May 21, 2020. He testified that when the City did a final inspection of the pool and fence/pool barrier, it failed because the fence was not installed in accordance with the approved plans. Mr. Clayton testified that the installed pool barrier encloses 4.37 times the surface area of the pool. He testified that the applicant was advised to comply with City Code or submit an application for a variance from the Board of Adjustment.

The Board expressed concern regarding the placement of the fence after the variance had been denied. The Board also stated that prior variances that were granted are subject to each applicant's variance request on its own merit and do not make precedents.

Public hearing closed.

**NEW BUSINESS:**

- 1. 16 Harbor Point Court – Lot 14 Harbor Point Estates Subdivision**  
Consideration of an appeal submitted by Steve Baker, applicant/property owner, for a 184-square-foot variance from the 1,980-square-foot maximum area permitted to be contained within a pool barrier (Section 430.470.J.5).

**GENERAL DISCUSSION:**

The Board discussed the testimony given for a 184-square-foot variance from the 1,980-square-foot maximum area permitted to be contained within a pool barrier (Section 430.470.J.5).

The Board reviewed the evidence and the requirements for granting the Variance under the Code.

**MOTION TO APPROVE VARIANCE: (16 Harbor Point Court – Lot 14 Harbor Point Estates Subdivision)**

Thomas Bach made a motion to grant a 184-square-foot variance from the 1,980-square-foot maximum area permitted to be contained within a pool barrier. The motion was seconded by Diane Mispagel. The poll of the Board being ayes: none; nays: Benjamin Borengasser, Diane Mispagel, Thomas Bach, and Mark Peterson. The vote was 0 to 4 against and the motion fails.

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ADJOURNMENT:

There being no further business to come before the Board of Adjustment, the hearing was, on motion duly made, seconded, and unanimously voted on, adjourned.

THE HEARING ADJOURNED.

The hearing adjourned at approximately 6:10 p.m.

*Approved*

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Brenda Cueller, acting as recording secretary