



BlaineMN.gov

**Case File No. 22-0081  
Ryan & Julie Comer**

Blaine Planning Department / 10801 Town Square Dr NE / Blaine, MN 55449 / (763) 785-6180























November 16, 2022

Dear Shawn,

This letter is in response to your request for a narrative regarding our Variance request. Please note I have also submitted the requested Survey, along with the "As Built" for your review.

Our project started because our retaining walls/pool were failing due to poor/incorrect craftsmanship. As we started down this "maintenance" remodel one thing led to the next as things were exposed and we found out that the builder did not backfill our property correctly that basically junk was used for fill and the landscaping company did not properly install the retaining walls, so our yard essentially was sinking/falling. As we started the process to reconstruct our property to be structurally sound, we had looked at all possible options. In going through this process, we had instructed our contractor "Southview" to work closely with the City of Blaine as it was/is extremely important to us to have a good relationship and follow codes. We have been proud members of the Blaine community for 20 years and plan to be here for the long haul.

There were many "additional" expenses we were surprised with, one being having to dewater and properly backfill our yard amongst other things to make it correct/stable which was extremely costly. When we got to the point in the project to start selecting materials and landscape items, our contractor had called the City of Blaine to inquire about pool/fencing codes. When he called no one at the city was able to assist him and he was directed to the Cities website and was told that everything was on the website to follow that. When he went to the website, he pulled the appropriate codes/information (See attached) and we made a landscape design/plan accordingly to the City of Blaine's code as this was extremely important to us. We had built our retaining walls accordingly and we had taken the monies we were going to use for the fence and instead purchased an Automatic Safety Cover that exceeded the required code set forth by the ASTM F1346 on the City of Blaine's website.



Fast forward to current, we are exploring an addition to our home. In doing so the architect we are working with had contacted the City of Blaine to make sure we are following codes as this is very important to us and our architect was informed by the City of Blaine that there are violations on us, and no work is allowed to be done until the violation is taken care of. Our architect of course emailed us right away, and we were completely taken by surprise as we had no idea of this, nor were we ever told to this point that we were in violation of anything. We inquired as to what was going on and the City of Blaine said we were in violation do to our pool not having a fence. This was a complete shock as we had followed the City of Blaine's codes. When we called the City, we were informed that unfortunately the website was not "up to date" and the City had taken down the web page after we informed them of the information we were given. At this point in the project, the project had been paid for and completed to meet the Cities codes that we were given to us at the time.

We feel like there were a series of events to no fault of our own that have caused this problem. If the city was willing to talk through this with our contractor when he called, they could have given him direction/code information as to how to move forward with our project. If that was not an option when the City directed him to their website if the website was up to date, we would have been able to follow direction/code. It is important to note that we did follow the code that we were given that was on the Cities website at the time as instructed by the city. We understand that the cities website was not accurate but that is not our fault as we simply followed the directions we were given by the city for this project.

I would like to reiterate that it is extremely important for us to have a good relationship with the City of Blaine as we are long time members of the community and plan to stay here. However, at this point with the way our retaining walls are built you cannot put a fence in it without having to remove parts of the wall and redo it. This would be extremely expensive to do. We also understand the reasoning for the fence and absolutely want to be safe. As good faith we did pay for and install a fence with locking gates on both sides of our property. The only way to now get into our back yard is via the lake, which we have built 4' retaining walls. What we are asking for from the City is to allow a Variance to not have a fence along the lakeside of our property. If you look at the attached "As Built" you will see both sides of our property already have the fencing installed with the locking gates, and the only unfenced portion is the lakeside of the property, we also of course have the Automatic Pool Safety Cover installed per code. If you would like more details/information we are happy to meet or provide it, as it is very important to us to move forward together.

Thank you for your help in this matter, we appreciate it.

Ryan & Julie Comer

Homeowners



## **APPLICANT VARIANCE CRITERIA**

1. **Identify a practical difficulty created by the ordinance that prevents the property being put to reasonable use if used under conditions allowed by the zoning code.**

WE HAD TO DO A MAINTENANCE REMODEL TO OUR BACK YARD BECAUSE OUR RETAINING WALLS WERE NOT BUILT PROPERLY BACK IN 2005 AND WERE FAILING/FALLING AND OUR POOL WAS UNSTABLE DUE TO IMPROPER BACK FILL BY THE BUILDER WHICH WE WERE UNAWARE OF. AS WE STARTED THIS PROJECT ONE THING SNOWBALLED TO THE NEXT REGARDING HOW THINGS WERE NOT BUILT PROPERLY AND WE HAD TO SPEND A LARGE AMOUNT OF MONIES TRYING TO CORRECT THIS.

2. **Exceptional or extraordinary circumstances apply to the property which do not apply generally to other properties in the same zone or vicinity, and result from lot size or shape, topography, or other circumstances over which the owners of the property, since enactment of this ordinance, have had no control.**

WHEN WE RECONSTRUCTED OUR PROPERTY TO BE STRUCTURALLY SOUND WE HAD LOOKED AT ALL OPTIONS AS TO WHAT WOULD PUT OUR PROPERTY BACK IN THE BEST POSSIBLE CONDITION. AS WE WENT THROUGH THIS PROCESS, WE CONTACTED THE CITY OF BLAINE AND WERE DIRECTED BY THE STAFF TO THE WEBSITE TO FOLLOW THE CODES TO MAKE SURE WE WERE COMPLIANT, AS THIS WAS AN IMPORTANT STEP FOR US. WE WERE INFORMED BY THE CITY'S WEBSITE (SEE ATTACHED PRINT OUT OF THE WEBSITE WITH THE HIGHLIGHTED CODE THAT WE WERE COMPLIANT WITH) THAT IF THERE WERE A SPECIFIC AUTO POOL COVER ON THE POOL THAT IT WAS NOT REQUIRED TO HAVE A FENCE. WITH THIS INFORMATION WE REBUILT THE RETAINING WALLS ACCORDINGLY AND USED THE FUNDS ALLOCATED FOR A FENCE TO PURCHASE THE AUTO COVER THAT MET THOSE REQUIREMENTS. WE INSTALLED AN AUTOMATIC POOL SAFETY COVER THAT EXCEEDS THE POWER SAFETY COVER REQUIREMENTS SET FORTH BY THE ASTM F1346.

3. **The literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this ordinance.**

WE UNDERSTAND THE REASONING FOR THE CODE AND IN GOOD FAITH HAVE PAID ADDITIONAL MONIES TO INSTALL FENCING ON BOTH OF THE SIDES OF OUR HOME WITH LOCKING GATES IN ADDITION TO THE SAFETY AUTO COVER WE INSTALLED. OUR ONLY REQUEST WE HAVE IS THAT WE DO NOT NEED TO INSTALL THE FENCE ON THE LAKE SIDE OF OUR PROPERTY. THIS WILL INCUR A SUBSTANTIAL AMOUNT OF MONIES TO DO AS WE LANDSCAPED ACCORDINGLY TO THE CITY CODE AND WOULD HAVE TO REDO A LARGE PORTION OF OUR LANDSCAPING. WE DO HAVE 4' RETAINING WALLS THAT RUN THE ENTIRE BACKSIDE OF OUR PROPERTY WHICH ARE THE SAME HEIGHT OF THE FENCE CODE. TO HAVE TO REDO OUR LANDSCAPING/WALLS AND PURCHASE ADDITIONAL FENCING AFTER SPENDING THE MONEY ON A AUTO COVER THAT MEET THE CITY CODE WOULD ABSOLUTELY IMPOSE A HARDSHIP ON US.

4. **That the special conditions or circumstances do not result from the actions of the applicant.**

THIS HARDSHIP WE ARE IN IS DUE TO NO FAULT OF OUR OWN. IT WAS DUE TO THE INCORRECT INFORMATION WE WERE GIVEN BY THE CITY. WE FOLLOWED ALL CODES AS WE HAD BEEN DIRECTED TO DO. WE HAD DIRECTED OUR CONTRACTOR TO WORK CLOSELY WITH THE CITY AS IT IS



VERY IMPORTANT TO US TO FOLLOW ALL CODES AND HAVE A GOOD WORKING RELATIONSHIP. WE HAVE LIVED IN THE CITY OF BLAINE FOR 20+YEARS AND HAVE ALWAYS ABIDED BY THE RULES/LAWS AND ARE PROUD TO LIVE HERE.

5. **That the granting of the variance requested will not confer on the applicant any special privilege that is denied by this ordinance to other owners of lands, structures or buildings within the same district**

WE DO NOT BELIEVE THIS WOULD BE GRANTING SPECIAL PRIVILEGE AS THIS IS A UNIQUE CIRCUMSTANCE. OUR CONTRACTOR TRIED TO TALK WITH THE CITY ON THIS TO MAKE SURE IF WE SWITCHED OUR LANDSCAPING AND MADE THE PURCHASE FOR THIS PARTICULAR AUTO COVER THAT WE WOULD MEET CODE. HE WAS INFORMED THAT NO ONE WOULD BE ABLE TO HELP HIM WITH THIS AND WAS DIRECTED TO THE WEBSITE BY THE STAFF. WHEN WE WERE INSTRUCTED BY THE CITY TO THE WEBSITE US (HOMEOWNERS) DID FOLLOW THE CODE AND WERE COMPLIANT. AFTER WE COMPLETED THE WORK THE CITY THEN SAID THIS IS OUTDATED INFORMATION AND NO LONGER THE CODE. I BELIEVE IF THE WEBSITE CODE WAS UP TO DATE AND/OR IF THE STAFF WOULD HAVE TAKEN THE TIME TO WORK WITH OUR CONTRACTOR THIS COULD HAVE BEEN EASILY AVOIDED. NOW THAT THE WORK IS COMPLETE TO COME BACK TO US AND SAY EVEN THOUGH YOU FOLLOWED THE RULES AND COMPLIED WITH THE CODES WE ARE GOING TO MAKE YOU SPEND ADDITIONAL MONIES TO CHANGE YOUR LANDSCAPING BECAUSE WE DID NOT HAVE OUR CODES UP TO DATE IS WRONG. THIS IS WOULD BE EXTREMELY UNFAIR UNLESS THE CITY WOULD LIKE TO INCUR THE EXPENSES TO CHANGE THE LANDSCAPING/ADDITIONAL FENCING.

6. **That the variance requested is the minimum variance which would alleviate the hardship. Economic considerations alone shall not be considered a hardship.**

MINIMUM VARIANCE NOT APPLICABLE

7. **A variance would not be materially detrimental to the purposes of this ordinance, or to other property in the same zone**

THIS WOULD NOT BE MATERIALLY DETRIMENTAL

8. **The proposed variance will not impair an adequate supply of light and air to the adjacent property, or substantially increase the congestion of public streets, or increase the danger of fire, or endanger the public safety, or substantially diminish or impair property values within the neighborhood.**

THIS VARIANCE WILL NOT HARM OTHER PROPERTIES NOR IMPAIR ANY LIGHT OR AIR TO THEM.