



**SPECIAL MEETING
ZONING BOARD OF APPEALS
Friday, May 22, 2020**

**City of New Buffalo
224 W. Buffalo Street
New Buffalo MI 49117**

AGENDA

1. Call to Order, Pledge of Allegiance
2. Roll Call
3. Approval of Agenda
4. Approval of Previous Minutes- January 7, 2020
5. Public Comment
6. Public Hearing
Variance Request 718 W. Indiana Street 11-62-8270-0017-00-4 allowing a six-foot (6') privacy fence to shield use of a proposed pool in the front yard of W. Indiana Street.
7. New Business
Variance Request 718 W. Indiana Street 11-62-8270-0017-00-4 allowing a six-foot (6') privacy fence to shield use of a proposed pool in the front yard of W. Indiana Street.
8. Adjournment

The Special Meeting for January 7, 2020 of the Zoning Board of Appeals was called to order by Chair, Liz Grim-Vaughn at 5:04 pm in the City Council Chambers at New Buffalo City Hall, 224 W. Buffalo Street, New Buffalo, MI 49117.

The Pledge of Allegiance was led by the Zoning Board of Appeals.

Roll Call

Members present: Chair, Liz Grim-Vaughn; Boardmembers Richard Cooper, Mark Joseph, Thomas Smith and Brandon McSmith

Members tardy: Vice-Chair, Arlene Pokuta arrived at 5:07 pm due to a doctor appointment.

Staff present: City Manager David Richards; City Clerk, Ann Fidler; Deputy Clerk, Nancy Griffin.

Approval of Agenda

Motion by Boardmember Smith, seconded by Chair Grim-Vaughn to approve the agenda.

Unanimous 5-0, Motion Carried, Arlene Pokuta was not present at time of vote.

Public Comment

None

Public Hearing

Variance Request 1112 E. Clay allowing for additional lot coverage

- 11-62-8200-0203-04-4
- 11-62-8200-0206-02-7
- 11-62-8200-0207-04-0
- 11-62-8200-0207-02-3

Evan LaDuc of Abonmarche Associates, representing New Buffalo Area Schools presented the variance request in detail to the Board, including a new STEAM (Science, Technology, Engineering, Arts, Mathematics) building, retention pond, pavilion with restrooms, additional pickleball courts and parking and updates to the basketball court, tennis courts, skateboard park, parking etc. New Buffalo Area Schools is requesting for 68% of the property be hard surface.

Motion by Boardmember Smith to Close Public Hearing, seconded by Boardmember Pokuta.

Unanimous 6-0, Motion Carried.

Motion by Boardmember Smith, seconded by Boardmember Pokuta to open New Business.

Unanimous 6-0, Motion Carried.

New Business

- a. Variance Request, 1112 E. Clay allowing for additional lot coverage
 - 11-62-8200-0203-04-4
 - 11-62-8200-0206-02-7
 - 11-62-8200-0207-04-0
 - 11-62-8200-0207-02-3

Motion by Boardmember Joseph, seconded by Boardmember Smith to **approve** the variance request for 1112 E. Clay allowing for additional lot coverage for reasons as follows:

- The subject lot is an existing non-conforming lot of irregular dimensions making construction difficult and requiring accommodation
- The lot coverage proposed is consistent with the needs of the community
- The variances will have limited detriment to adjacent properties and the neighborhood.

Unanimous 6-0, Motion Carried.

Adjournment

Motion by Chair, Grim-Vaughn, seconded by Boardmember Joseph to adjourn the meeting at 5:23 pm.

____ Liz Grim-Vaughn resigned May, 2020 ____
 Liz Grim-Vaughn, Zoning Board of Appeals Chair

 Ann M. Fidler, City Clerk

 Arlene Pokuta, Zoning Board of Appeals Chair

 Ann M. Fidler, City Clerk



ZONING BOARD OF APPEALS

STAFF REPORT

Meeting Date: May 22, 2020

Project Number: 02.12.20

Project Name: Hardey Fence Variance Request.

Applicant: Steve Hardey, [REDACTED]

Property Location: 718 W. Indiana Street, New Buffalo, MI 49117; N/E corner of W. Indiana and S. Chicago Street, #11-62-8270-0017-00-4.

Owner: Stephen S. and Nicole Hardey, [REDACTED]

Dimensions: 132'X 66', 8,712 SF.

Proposed Use: Single Family dweiling.

Zoning: The entire area is zoned R-1 Single Family Residential.

Action Requested: Allow a six foot (6') privacy fence to shield use of a proposed pool in the front yard of W. Indiana Street.

OVERVIEW

The purpose of this application is to consider allowing a six foot (6') fence to shield a proposed pool in the front yard of W. Indiana Street. The property is a corner lot with two (2) front yards, one on W. Indiana Street and the other on S. Chicago Street. The Zoning Ordinance specifies fences in the front yard cannot exceed 3.5 feet and not more than 50% solid. The Ordinance further requires a fence of at least four feet (4') surrounding a pool thus requiring a variance to allow the six foot (6') privacy fence in the front yard on W. Indiana Stret.

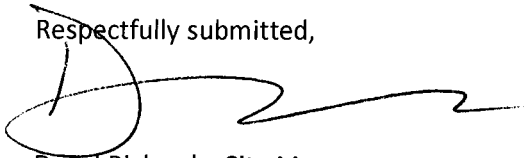
Section 14.1 – Schedule of Regulations for R-1 Single Family Residential

Findings

- The subject lot is an existing conforming lot of regular dimensions.
- Front, rear and sideyard setbacks are met.
- Maximum lot coverage allowed is 35% which the project will not exceed.
- The Zoning Board is authorized to consider the requested variances.
- The circumstances of this property are not comparable to adjacent properties as it experiences two (2) front yards.
- There dimensional characteristics to the lot are not at issue.
- The variances preserve the substantial property rights indistinguishable from other property in the same zoning district.
- The variances will have limited detriment to adjacent properties and the neighborhood.
- The variance will not impair the intent and purpose of the Zoning Ordinance.

After review of the application materials, confirmation of the facts reported, site inspections and evaluation of the site development requirements, it is recommended to approve the requested variances of a privacy fence located in the front yard with a height of six feet (6') on W. Indiana Street to surround a pool for project #02.12.20 – Hardey Fence Variance Request.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'David Richards', with a large, stylized initial 'D'.

David Richards, City Manager



City Staff Use Only

Project Name
Project Number
Review Fee Paid
Escrow Fee Paid

PAID
FEB 12 2020
City of New Buffalo


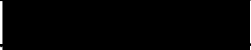
APPLICATION TO: PLANNING COMMISSION ZONING BOARD OF APPEALS

224 W Buffalo St, New Buffalo, MI 49117 City Hall: 269-469-1500 Building Dept: 269-469-7144 Facsimile: 269-469-7917


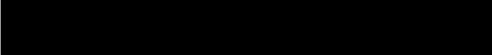
Instructions: Fill-in all blanks and 'X' applicable boxes (). Incomplete applications cannot be processed.

I. Applicant and Owner Information

A) Applicant(s) principal contact:

Name Steve Hardey
Address 
Telephone 

E) Property owner(s) principal contact:

Name Steve Hardey
Address 
Telephone 

B) Applicant(s) secondary contact:

Name _____
Address _____
Telephone _____

F) Architect (if applicable):

Name _____
Address _____
Telephone _____

C) Agent or Attorney (if applicable):

Name _____
Address _____
Telephone _____

G) Engineer (if applicable):

Name _____
Address _____
Telephone _____

D) Is the property held in Trust*:

Yes - Answer below No - skip below

Name of Trust _____
Address _____
Telephone _____

H) Applicant is (check one):

Property owner
 Attorney
 Agent
 Engineer
Other: _____

* Trusts: Provide an attached statement from the trustee verifying the names of all the beneficial owners.

II. Purpose of Application

A) This application is a request for the following action:

Rezoning of Property

Subdivision Approval

Site Plan Approval

Rezoning Amendment

Variance(s) Approval

Special Use Approval

Lot Split – Subdivision or Land Division

Other: _____

B) The reasons for the requested action(s) are as follows:

I would like to extend the existing 6 foot fence that is on the property line between my home and my neighbor's to enclose the back yard and side yard of 718 W Indiana. I am going to put a pool in the yard, so I am looking for approval of a 6 foot fence to ensure both the privacy of my yard and respect the privacy of all neighbors. The new portion of fence will follow all setback guidelines

C) The specific section(s) of the City Zoning Ordinance or City General Ordinances which addresses the amendment, variance, or other action which is being requested:

Pool fences needing to be 4.5 feet tall but front yard/side yard fences being limited to 3.5 feet tall. To respect the privacy of the neighborhood and to extent the current 6 foot fence,

D) The following two questions are only for applications which contain a request for a zoning variance:

1. Are the conditions which prevent the development of the property the result of action by an individual who has or had a property interest in the subject property: Yes No
2. If the conditions were self-imposed (not hardship), explain why the variance should be granted:

III. Site and Surrounding Property Information

A) Common address or property location of subject property:

718 W Indiana Street, New Buffalo, MI

B) Legal description (attach an additional sheet if necessary):

Lot 5 Dik 2 Sub of Entire Diks 355 and 359 and part of Dik 363 Virginia Add to Village of N

C) Permanent Real Estate Tax Identification Number: 116282700017004

D) Parcel Size: 8,712 Square feet

Acres

132' Dimension of lot frontage

66' Dimension of lot depth

E) What are the current land uses and zoning on the property and the adjoining properties:

	Current zoning	Current land use
1. On Site:	residential	residential
2. Adjoining property:		
a) North of Site	residential	residential
b) South of Site	residential	residential
c) East of Site	residential	residential
d) West of Site	residential	residential

F) Describe any existing structures or other improvements and physical attributes of the site:

I will be putting in an in ground pool

IV. Description of the Proposed Development

A) Please describe the proposed use of the land and/or building assuming approval of the request:

residential in ground pool

B) What is the proposed time frame for the build-out of this development: May, 2020

C) For each intended use please fill-in the number of buildings, square footage of each building, the total square footage of the development, and the required number of parking spaces; as well as the number and size of the water and the sewer connections:

Building Use	Number of Buildings	Building Area (sq ft)	Total Building (sq ft)	Required Parking Spaces	Water Connections and Sizes	Sewer Connections and Sizes
Single Family R-1						
Two Family R-2						
Mufl-Family R-3						
Central Business CBD						
Gen. Commercial GCD						
Waterfront Marina WM						
General Industrial I-1						
TOTAL						

D) If this application is for a development please provide information concerning the amount of traffic and the proposed road configuration it will have:

- 1) Average daily traffic count for the proposed development: _____
- 2) Peak traffic flow count for the proposed development: _____
- 3) How many lineal feet of roadway is proposed to be developed: _____
- 4) How many cul-de-sacs will be constructed as part of this project: _____
- 5) How many curb cuts to City, County or State roads are proposed: _____

E) Does the request contemplated in this application concern any hazardous materials:

No

Yes – describe the type and quantity of materials (attach extra pages if necessary):

V. Attachments

- A) Plat of Survey with legal description.
- B) Site plan of proposed use of project showing traffic patterns, parking locations and court, drainage patterns including detention areas, landscaping plans, exterior lighting locations and illumination pattern, building facade portrait and building size and location dimensions.
- C) Floodplain map (engineer's drawing or FEMA map showing location of subject property).
- D) Application fee in the amount of \$ 350.
- E) High Risk Dune Area Designation and/or Soil Conservation Analysis (if applicable).
- F) Application for permits (specify type):
 - 1) Michigan DOT _____
 - 2) County Road Commission _____
 - 3) County Health Department _____
 - 4) State Dept. of Public Health _____
 - 5) Michigan DEQ _____
 - 6) Others _____
- G) Sand Dune Permit for Construction (if applicable).

VI. Additional Information - Please describe the reasons this petition should be granted and include any additional comments or pertinent information (attach additional pages if necessary):

We purchased the home because we love the neighborhood and are looking forward to using this home as a summer getaway.
 Because most of the yard is on the side of the home, extending the new portion of fence from the location of the existing fence on the property's side yard will cause the least amount of disruption to the neighboring homes, and will provide the most amount of privacy for all neighbors.

The side yard is the most private area of this corner lot and since it is the furthest area from neighboring properties, it will allow us to respect all neighbors. The position of the corner lot and the large front yard can easily support a 6 foot fence without being too close to the road or neighboring properties.

Extending the fence at 6ft will not disturb neighbors, it will allow us to create a better backyard experience, leading to more visitors and more revenue generated for the City of New Buffalo every year.

VII. Signature and Declaratory Statement

A) Required attendance at public hearing(s) and/or meeting(s): The Planning Commission and Zoning Board of Appeals (ZBA) have established a policy requiring the applicant or a designated representative of the applicant to be present at any meeting or public hearing at which their application is to be considered. Failure of the applicant or designee of the applicant to appear may postpone consideration of the application by the Planning Commission or ZBA.

B) Declaratory Statement:

I, Steve Hardey, hereby certify that all information contained in this application and accompanying documentation is true and correct to the best of my knowledge and further, I acknowledge the required attendance of the applicant as set forth in paragraph A above. I furthermore grant permission for identified members of the City of New Buffalo's Planning Commission or Zoning Board of Appeals to visit the site(s) referenced in this application.

C) Applicant Signature:  Date: 2/10/2020

D) Notary Public Certification Statement:

I, _____, Notary Public in and for the State of Michigan this _____ day of _____, the above captioned applicant appeared before me and under oath, stated that all matters contained in this application are true.

My commission expires: _____

VIII. City Staff Review

A) Fire Department approval of Site and Building Plans, except for single family dwellings: This application and associated documentation must be reviewed by the Fire Chief or his designee, which can be arranged by calling the Fire Department: 269-469-4993.

Review Date: _____

Approval: Yes No Signature: _____

Conditions: Attached None Title: _____

B) Note to applicant: The original application must be filed in the Office of the Zoning Administrator, where the following signatures are required for verification that this is a complete and valid application to be considered by the Planning Commission or the Zoning Board of Appeals.

Building Inspector: _____ Date: _____

Zoning Administrator: _____ Date: _____

Initial meeting date: _____

ABONMARCHE

95 West Main Street
 Benton Harbor, MI, 49023
 T 269.927.2295
 F 269.927.1017
 abonmarche.com

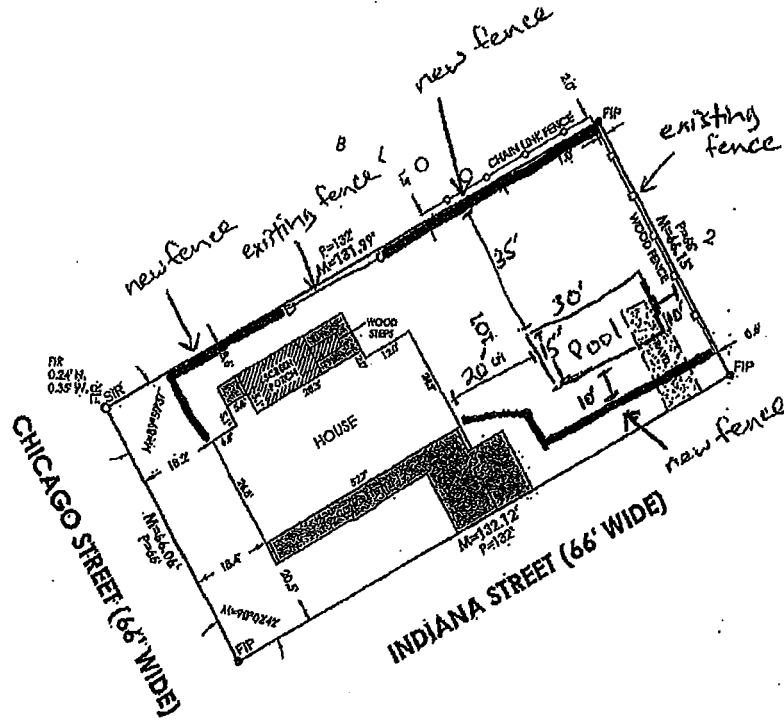
Battle Creek
 Benton Harbor
 LaSalle
 South Bend
 Goshen
 Harbor
 South Haven
 Valparaiso

Engineering · Architecture · Land Surveying

CERTIFICATE OF SURVEY

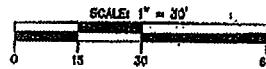
I, MATTHEW REINKING, A LICENSED PROFESSIONAL SURVEYOR, NUMBER 54057, IN MICHIGAN, CERTIFY THAT THIS DRAWING IS AN ACCURATE REPRESENTATION OF A BOUNDARY SURVEY PERFORMED UNDER MY DIRECTION FOR THE FOLLOWING DESCRIBED PARCEL OF LAND: LOT 5 IN BLOCK 2 IN SUBDIVISION OF ENTIRE BLOCKS 355 AND 359 AND PART OF BLOCK 353, VIRGINIAN ADDITION TO THE VILLAGES (NOW CITY) OF NEW BUFFALO, BERRIEN COUNTY, MICHIGAN, ACCORDING TO THE PLAT THEREOF RECORDED IN LIBER 8 OF PLATS, PAGE 4, BERRIEN COUNTY RECORDS.

SUBJECT TO ALL EASEMENTS AND RESTRICTIONS OF RECORD OR OTHERWISE, IF ANY.



LEGEND

- P = PLATED
- M = MEASURED
- FIR = FND. IRON ROD
- FIP = FND. IRON PIPE
- SIR = SET IRON ROD



Matthew Reinking
 MATTHEW REINKING
 LICENSED PROFESSIONAL SURVEYOR No. 54057

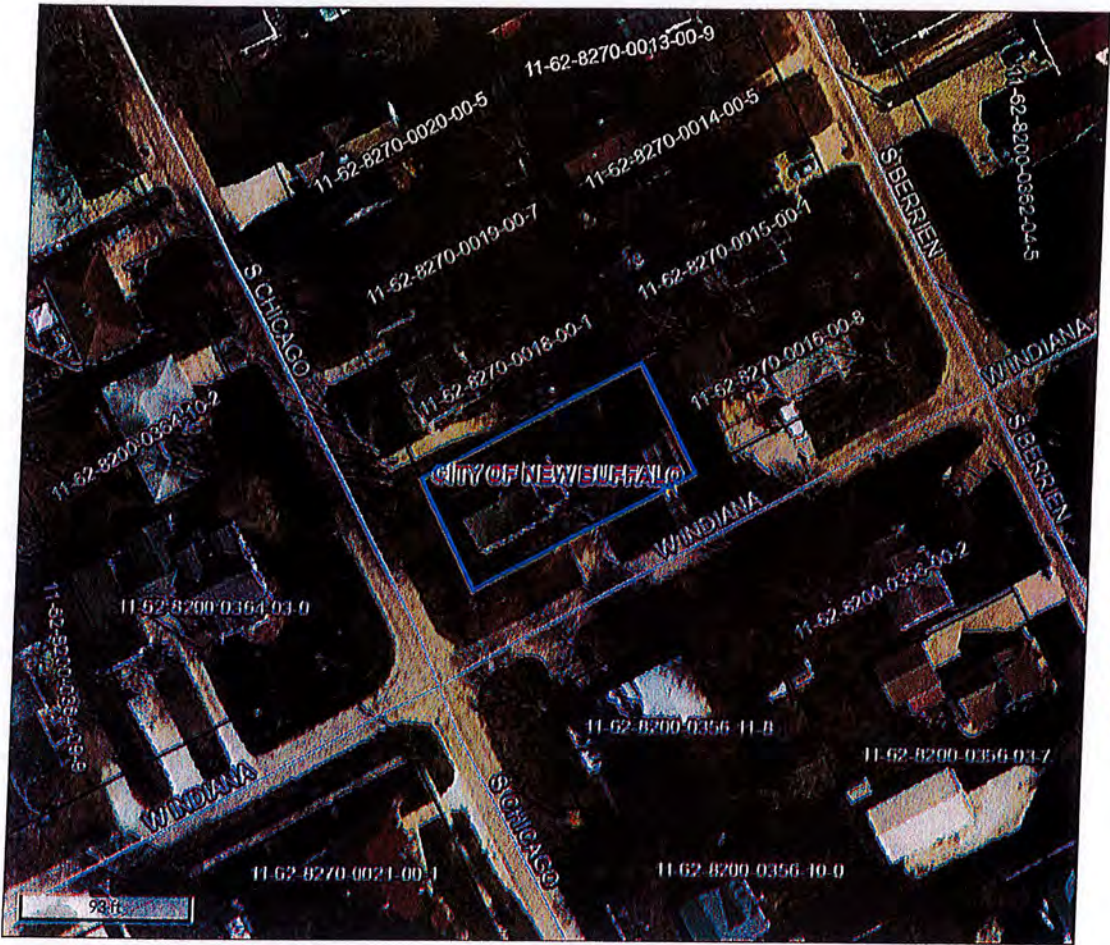
4/11/2019
 DATE OF CERTIFICATE

THE SURVEY WAS BASED ON THE INCLUDED LEGAL DESCRIPTION AS IT APPEARS ON A DEED OR TITLE INSURANCE POLICY, AND SHOULD BE COMPARED WITH THE ABSTRACT OF TITLE OR TITLE INSURANCE POLICY FOR ACCURACY, EASEMENTS OR EXCEPTIONS. ANY WRITTEN OR UNWRITTEN RIGHTS OF ADJOINERS ARE UNKNOWN UNLESS SPECIFICALLY NOTED.

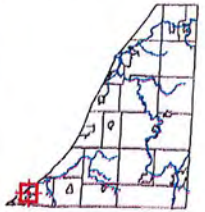
PREPARED FOR: TOM LYNN CHICAGO TITLE INSURANCE COMPANY COASTLINE TITLE AGENCY LLC	DRAWN BY: MGR	LOT 5 BLK. 2 SUB. OF BLKS. 355,
	APPROVED BY: MAF	359 & 353 VIRGINIA ADDITION
	DATE: 4/10/2019	CITY OF NEW BUFFALO
	SCALE: 1" = 30'	SHEET 1 OF 1

JOB NO. 19-0445

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Overview



Legend

-  City and Villages
-  Railroads
- Roads
 -  <all other values>
 -  Interstate
 -  Major Arterial
 -  Minor Arterial
- Roads
-  Parcels
-  Lakes
-  Rivers
-  Lake Michigan

Parcel ID	11-62-8270-0017-00-4	Alternate ID	n/a	Owner Address	HARDEY STEPHEN &
Sec/Twp/Rng	n/a	Class	401		HARDEY NICOLE
Property Address	718 W INDIANA ST	Acreage	n/a		
	NEW BUFFALO				
District	11200				
Brief Tax Description	LOT 5 BLK 2 SUB OF ENTIRE BLKS 355 & 359 & PART OF BLK 363 VIRGINIA ADD TO VILLAGE OF NEW BUFFALO				
	<i>(Note: Not to be used on legal documents)</i>				

Date created: 2/13/2020
 Last Data Uploaded: 2/13/2020 1:04:10 AM

Developed by 

*City of New Buffalo, MI
Monday, August 19, 2019*

Appendix A. Zoning Ordinance

Article 3. General Provisions

Section 3-3. Corner lots.

- A. A corner lot shall have two front lot lines: a principal front lot line and a secondary front lot line. The principal front lot line shall be the shorter of the two lot lines. Where the lot lines are of equal length, and/or the principal front lot line is not evident, then the Zoning Administrator shall determine the principal front lot line.
- B. General provisions.
1. The required front setback shall be met on both the principal and secondary streets; provided that where the lot contains an existing main building, the front setback from the secondary street may be reduced by 10 feet.
 2. The remaining setbacks shall be a side setbacks.
 3. The width of a corner lot shall be determined by the entire length of that front lot line which is opposite the rear lot line.

*City of New Buffalo, MI
Monday, August 19, 2019*

Appendix A. Zoning Ordinance

Article 3. General Provisions

Section 3-5. Fences.

- A. Fences in residential districts shall not exceed six feet in height, measured from the surface to the uppermost portion of the fence.
- B. Fences erected within the front yard in any district shall not exceed 3 1/2 feet in height. Fences within the front yard shall be of a type which is not more than 50% solid and shall not be located within any clear vision area, per Section 3-13.
- C. Fences in residential districts or enclosing residential uses shall not contain barbed wire or be electrified.
- D. In residential districts, the finished side of the fence shall face the abutting property.
- E. Fences shall not be erected within any public right-of-way in any district.
- F. Fences shall not be erected within two feet from a sidewalk, where the sidewalk is within the public right-of-way.

City of New Buffalo, MI
Monday, August 19, 2019

Appendix A. Zoning Ordinance

Article 3. General Provisions

Section 3-14. Swimming pools.

- A. Every person owning land on which there is located a swimming pool, spa, hot tub, or similar device (below ground or above ground) which contains 24 inches or more of water in depth at any point, shall ensure that such device is made inaccessible to small children by means of a fence or enclosure surrounding the device or due to the height of the side walls, which means shall be approved by the Zoning Administrator. Such side walls, fence or enclosure, including the gates, shall not be less than four feet or greater than six feet above grade. All gates shall be self-latching with latches placed no less than four feet above grade or otherwise made inaccessible from the outside to small children.
- B. Swimming pools shall not be located less than 10 feet from any lot line or any main building.
- C. Swimming pools, spas, hot tubs and similar devices shall not be located in any front yard.
- D. No pool, spa, hot tub, or similar device regulated by this section shall be constructed, installed, enlarged, or altered until a permit has been obtained from the Zoning Administrator.