**Town of Milford**
**Zoning Board of Adjustment Minutes**
**July 7, 2011**
**Case #10-11**
**Kristen Lawson**
**Special Exception**

Present: Kevin Johnson, Chairman
Laura Horning
Fletch Seagroves
Zach Tripp - Alternate

Absent: Steve Winder
Steve Bonczar
Michael Unsworth - Alternate

Secretary: Peg Ouellette

The applicant, Kristen Lawson, owner of Map 39, Lot 134, 49 Wellesley Dr., in the Residence "A" district, is requesting a special exception from Article V, Section 5.02.2A:8 to permit the placement of an above ground pool three (3) +/- feet from the side property line.

MINUTES OF THE JULY 7, 2011 MEETING WERE APPROVED ON JULY 21, 2011

Motion to Approve: _____

Seconded: _____

Signed: _____

Date: _____

Kevin Johnson, Chairman, opened the meeting by stating that the hearings are held in accordance with the Town of Milford Zoning Ordinance and the applicable New Hampshire Statutes. He continued by informing all of the procedures of the Board; he then introduced the Board. He read the notice of hearing into the record as well as the list of abutters. Kristen Lawson, owner of Map 37, Lot 134, 49 Wellesley Drive, was present. Dzevad Glusac, of 8 Larch Road, an abutter, was present.

Chairman Johnson stated there were only four Board members present and informed the applicant that she has the right to have her hearing postponed until there is a full Board. Regardless of the number of Board members present she must have an affirmative vote from three Board members for approval. If she is comfortable with four Board members, she must sign a waiver. She agreed and signed the waiver.

Kristen Lawson said she is looking to put in an above ground pool. They have a fenced in side and back area and the fence is about 1 to 1/2 feet from the property line. There is a slope on the land towards the fence so they would like to put the pool about 1 to 1/2 feet from the fence so they can access it. It is less than 15' from the property line. She referred to the property line and fence on the drawing.

Kevin Johnson asked if the fence is an existing fence.

Kristen Lawson replied yes.

Fletcher Seagroves asked how far the proposed pool would be from the house.

Kristen Lawson replied she doesn't have a measurement but there should be a graph paper with all the measurements included in the application. Board members stated they did not have that information.

Fletcher Seagroves said it looks like it is quite a distance. Kristen Lawson said it is.

Kevin Johnson stated that if the plan is approximately to scale and the pool is 20' by 32' then it appears to be about 16 feet from the house to the pool.

Laura Horning asked what the lot dimension is.

Zach Tripp stated it is 111' by 135'.

Kristen Lawson stated that there is a small hill and to excavate that it would be necessary to go below the grade of the cement steps and the landing at the house. It would be necessary to build a retaining wall and then grade the area below to make it level for a pool which would make access to the pool difficult.

Kevin Johnson asked the Board if there were any additional questions.

Fletcher Seagroves said he believed he read somewhere that the pool itself would be fenced in.

Kristen Lawson replied there is a locking, lift-up staircase and also an aluminum fence and deck around the pool.

Laura Horning asked how they would keep people from coming up the driveway to access the pool.

Kristen Lawson said there is already a fence there. The area is completely fenced in.

Laura Horning asked if the rear of the property is fenced, as well. Kristen Lawson said, yes the fence goes from the driveway to a point where it touches the house and there are two gates which both lock. So the fence goes all the way to the back corner.

Laura Horning stated that looking at the driveway it seems to go all along the back of the lot. Kristen Lawson said that is correct.

Laura Horning said the schematic doesn't show a fence all around. She was concerned that there should be no access to the backyard at all. Kristen Lawson stated that fence is not actually her fence; the neighbors have a fence that meets up with her fence.

Kevin Johnson asked the Board if there were any further questions; there were none. He opened the meeting for public comment

Dzevad Glusac of 8 Larch Road came forward. He said he is all set. Kristen Lawson said Mr. Glusac has the same pool as the proposed one. Kevin Johnson asked if it was correct that Mr. Glusac had a pool installed that is the same model as this proposed one. Mr. Glusac said that is correct.

Kevin Johnson asked if Mr. Glusac had any objections to this installation. Mr. Glusac said he had no objections.

There were no further comments or questions and Kevin Johnson closed the public portion of the hearing. He stated there were no other communications received regarding this case.
Kevin Johnson asked the applicant to go through the criteria for a special exception.

**Description of proposed use:**

Kristen Lawson said the pool will be for private use only.

**1. The proposed use shall be similar to those permitted in the district:**

Kristen Lawson said the pool will be for private use only and many neighbors in the area have similar above-ground pools.

**2. The specific site is an appropriate location for the proposed use because**:

Kristen Lawson stated the site for the pool is the easiest accessible area for the family. It is also a completely fenced in area. The pool will be placed in an area that is sloping and unused at this time.

**3. The use as developed will not adversely affect the adjacent area because:**

The pool will be fenced in making it inaccessible to the public. It will also be more aesthetically pleasing because it will be more private.

**4. There will be no nuisance or serious hazard to vehicles or pedestrians:**

The area of the pool is in a fenced in area of the yard. The pool itself also has a fence around it with a locking staircase.

**5. Adequate appropriate facilities will be provided for the proper operation of the proposed use because:**

The pool is contained from the public by a fence and accessible by a locking staircase. Also, if the Board needs more on that, she can provide a list of similar cases heard before.

Kevin Johnson asked if there were any additional questions. There were none.
Kevin Johnson read from the Town of Milford Zoning Ordinance; Article V, Section 5.02.2:8 Acceptable Uses and Yard Requirements by Special Exception: 8. Reduced front, side and rear setbacks. He then read Section 10.02.1: *The Board of Adjustment may in appropriate cases and subject to appropriate conditions and safeguard as determined by the board, grant permits for such special exceptions as allowed in the various zoning districts as set forth in Article II. The Board may refer all applications for special exceptions to the Planning Board for its review and recommendations prior to holding public hearing on the application. The Board of Adjustment, in acting on an application for a special exception shall take into consideration the following conditions: A. The proposed use shall be similar to those permitted in the district. B. The specific site is an appropriate location for the proposed use. C. The use as developed will not adversely affect the adjacent area. D. There will be no nuisance or serious hazard to vehicles or pedestrians. E. Adequate appropriate facilities will be provided for the proper operation of the proposed use.*
Kevin asked the Board if they feel the application meets all the requirements.

**A. The proposed use shall be similar to those permitted in the district:**

Zach Tripp said he believes it meets the requirements for the district described in the record, Section 10.2.1 that subject to specific setbacks allowed by special exception, the proposed site is an appropriate location as the applicant described.
Fletcher Seagroves agreed.
Laura Horning agreed.
Kevin Johnson agreed with the Board.

**B. The specific site is an appropriate location for the proposed use:**

Zach Tripp said it appears to be an appropriate location; as the applicant stated, if they move the pool away from the setback line they would have to alter the grade and alter the steps. He believes it is an appropriate location.

Fletcher Seagroves said he believes that to put the pool in it has to be put where it is because of what the applicant stated; that's why he was questioning whether it could be moved closer to the residence. But it cannot be because of the lay of the land.

Laura Horning agreed.

Kevin Johnson said that having no topographical map showing the exact lay of the lot, they accept the applicant's testimony as fact that, because of the contour of the land, this is the most appropriate place without requiring significant modifications to the existing land, which would serve no useful purpose. Therefore he feels this clearly meets the specific site requirement.

**C. The use developed will not adversely affect the adjacent area:**

Zach Tripp said he does not believe it will adversely affect the adjacent area

Fletcher Seagroves agreed

Laura Horning agreed saying the use requested would only add to the property value and as the applicant had her neighbor testify he already has the same pool, she doesn't feel it would adversely affect any of the adjacent property.

Kevin Johnson agreed with the Board members.

**D. There will be no nuisance or serious hazard to vehicles or pedestrians:**

Zach Tripp said there would be no nuisance to the vehicles or pedestrians

Fletcher Seagraves agreed.

Laura Horning said with an entirely fenced yard there would not be any hazard to the safety of vehicles or pedestrians.

Kevin Johnson agreed with the Board members. He said because it is a fenced yard away from traffic there should be no hazard to vehicles or pedestrians.

**E. Adequate appropriate facilities will be provided for the proper operation of the proposed use:**

Zach Tripp said he believes appropriate facilities are provided.

Fletcher Seagroves said he agrees.

Laura Horning said the proposed use is a pool in a residential area which is pretty common.

Kevin Johnson said that, as has been stated before, the adequate facilities is a general condition that has to be broad enough to cover every different type of special exception; that we can trust from the application that pool installers will install the pool and trust they will do the appropriate job and will use the permitting process so there will be the necessary inspections. So it will have all that the applicant described – the safety features, the locking staircase, the additional fencing around the pool. He further stated that because it is a fenced yard away from traffic there should be no hazard to vehicles or pedestrians.

Kevin Johnson asked the Board if this is a special exception allowed by the ordinance.

Fletcher Seagroves - yes Laura Horning – yes Zach Tripp – yes Kevin Johnson – yes

Kevin Johnson asked if the specified condition under which a special exception may be granted.

Laura Horning – yes Zach Tripp – yes Fletcher Seagroves – yes Kevin Johnson – yes

Kevin Johnson asked if there was a motion to approve the application.

Laura Horning made the motion to approve Case # 10-11.

Zach Tripp seconded the motion to approve Case #10-11.

**Final Vote:**

**Fletcher Seagroves – yes Laura Horning – yes Zach Tripp – yes Kevin Johnson – yes**

Case #10-11 was approved by unanimous vote.

Kevin Johnson reminded the applicant of the 30 day appeal period.