

JUNO ISLES CIVIC ASSOCIATION
January 19, 2011
BOARD OF DIRECTORS MEETING

A special meeting of the Juno Isles Civic Association Board of Directors was held on Wednesday, January 19, 2011, at Holy Spirit Church on Ellison Wilson Road.

The purpose of the meeting was to hear a request for a variance to the rear setback requirements for a proposed swimming pool at 1935 Juno Isles Blvd.

❖ **Roll Call and Call to Order:**

Having determined sufficient board members were in attendance to constitute a quorum, President Louis Vilardo called the meeting to order at 7:05 p.m. The following Board members were present:

| | | |
|-----------------------|---------|---------|
| Felice Beyer | | Excused |
| Bob Bittenbinder | Present | |
| Blas Contreras | | Excused |
| Susan Czelustra | Present | |
| Doug Carpenter | Present | |
| Ron Hoehmann | Present | |
| Rodney Riccardi | | Excused |
| Elizabeth Bartholomew | | Excused |
| Mary Ann Martin | | Excused |
| Jim Moore | Present | |
| Louis Vilardo | Present | |
| Jud Whitehorn | Present | |

Also in attendance were Andrew Russo, realtor, representing the petitioner, Joseph Schimek, who was not present, and Mr. and Mrs. Richard Fackler and Mr. Dennis Swindell, residents of the properties on either side of the subject property.

Mr. Russo stated that the subject property is under agreement of sale but a condition of that sale imposed by the buyers is that they be able to build a swimming pool in the rear yard. Due to the size and position of the house on the lot this would require a variance to the 7.5 feet setback requirement to the rear property line. Mr. Russo submitted plans showing a proposed setback of 3 feet. Mr. Russo further stated that since the rear of the property abuts the waterway this 4.5 foot variance would pose no hardship on the neighboring home to the north. He further stated that the county has indicated they would permit the pool in the proposed position. Finally, he pointed out that a pool would increase the property value.

Mr. Vilardo pointed out that the only reason the variance is required is that the home extends further into the rear yard than the homes on either side and asked if the petitioner is the original owner. Mr. Russo testified that he was not. However, Mr. Fackler stated that it was Mr. Schimek who extended the rear of the home to its existing location and proportions. Mr. Vilardo expressed his belief that this problem was of the petitioner's own making and questioned

whether he should be entitled to relief. Mr. Russo responded that the buyers and future owners would be the primary beneficiaries of any variance granted.

Mr. Vilardo invited the neighboring homeowners to comment.

Mr. Swindell and The Facklers both expressed concern about obstruction of their view to the waterway by a pool and required fencing that would extend closer to the rear property line and stated that some of their view was already obstructed by the existing building extension that Mr. Schimek built. Mr. Swindell also expressed concerns about the disruption associated with building a pool.

Mr. Vilardo stated that the disruption would occur regardless of where the pool were built and was not relevant to whether or not the variance should be granted. He agreed that the view was a valid concern but also pointed out that the JICA covenants would currently permit a fence to be built all the way to the rear property line with or without a pool. Mr. Vilardo further stated that if this or subsequent owners ever come before the board with a request to build a pool enclosure he would vehemently oppose it.

Mr. Russo indicated that the petitioner would be willing to agree to not seek an enclosure and to limitations on the location and design of the fence if the variance for the pool were granted.

Mr. Swindell stated that the lot sloped from the rear of the house down to the waterway and questioned how a pool could be built in the proposed location. Mr. Russo stated his belief that the most severe slope occurred north of the rear property line.

A discussion ensued regarding how the pool contractor might deal with the slope of the yard. Concern was expressed by various board members that in order for the pool to be level the grade at the far end of the lot may need to be elevated and thereby further obstruct sightlines to the waterway. Mr. Jud Whitehorn shared a sketch with the board of what he thought might be necessary to level the pool. Mr. Bittenbinder questioned whether a retaining wall would be required if the far end of the lot needed to be elevated and how such a wall might impact the county code requirement to fence in the pool on all sides.

Mr. Hoehmann acknowledged all of the concerns but said he felt the increased property value resulting from the pool would benefit the community. Mr. Bittenbinder asked the Facklers if he could visit their yard to see how their view might be impacted by the requested variance. The Facklers agreed.

The Facklers and Mr. Swindell stated they did not wish to oppose the variance as long as their concerns could be addressed.

Mr. Russo suggested granting the variance with a limitation to the amount of north grade elevation and a stipulation as to the location and material of the fence and prohibition of a pool enclosure. Mr. Vilardo expressed his concerns about how binding these conditions would be on further owners and how easily they might be overturned by future boards. Mr. Russo suggested incorporating these conditions into a restriction on the deed. The board agreed that it would pursue the possibility of this with our counsel.

Mr. Carpenter indicated his support of granting the variance with the conditions discussed.

The conditions agreed to were:

The elevation at the north end of the site could be no more than 12 inches higher than the grade existing at the time of the meeting.

Approval is contingent upon a satisfactory review of all engineering plans and such plans must clearly show elevation.

Buyer and Seller agree to not build a pool enclosure and to grant the JICA board the right of approval for the material and location of fencing.

The Facklers and Mr. Swindell stated that they agreed the proposed restrictions adequately addressed their concerns and they would not oppose the variance being granted on those terms.

Mr. Bittenbinder made a motion to grant the variance as discussed. Ms. Czelustra seconded the motion. The motioned carried unanimously.

Mr. Vilardo adjourned the meeting at 7:50.

A copy of the variance as granted is attached.