

BOARD OF TRUSTEES

Nicholas J. Kelly
Allen M. Freeman
Peter J. Kambelos, MD

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Administrator

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Pierce Township Board of Zoning Appeals Hearing
950 Locust Corner Road
Wednesday June 15, 2022
5:00 pm.

Agenda

- I. Call to Order: Ryan Holte, BZA Chair
- II. Roll Call: Ms. Holman_____Mr. Sander_____Mr. Holte_____Mr. Lembke_____Ms. Spitzmiller_____Mr. Heyse_____Mr. Buhr_____
- III. Pledge of Allegiance
- IV. Review and Approval of:
 - a. Hearing Minutes from May 4, 2022
- V. **Oath taken by all attendees and staff wishing to speak during these hearings**
 - a. Staff presentation
 - b. Applicant presentation
 - c. Discussion by the Board
 - d. Open public comment
 - e. Motion to close public comment
 - f. Additional discussion by the Board
 - g. Motion to approve/deny/approve with modification(s)
- VI. New Business (Public Hearings):
 - 1) Case BZA2022-003: An application for two (2) dimensional variance(s), from Pierce Township Zoning Resolution, 4.05-1 "Swimming pools are to be located in the rear yard" and 4.05-1 "Detached Accessory Buildings are to be located in the rear yard", to install a swimming pool and pool house outside of the rear yard, for property located at 1386 SR 749 Pierce Township, Ohio 45157 (282804E070., submitted by Darren Sutter on behalf of Elisabeth and Kevin Elekes.
- VII. Other business:
- VIII. Adjournment
Next Meeting: as needed

**Pierce Township
Board of Zoning Appeals
June 15, 2022
Case Number: BZA2022-003**

Dimensional Variance:1386 SR 749 (282804E070.)

Summary: An application for two (2) dimensional variance(s), from Pierce Township Zoning Resolution, 4.05-1 “Swimming pools are to be located in the rear yard” and 4.05-1 “Detached Accessory Buildings are to be located in the rear yard”, to install a swimming pool and pool house outside of the rear yard.

Owner: Elizabeth and Kevin Elekes

Applicant: Darren Sutter

Property Location: 1386 SR 749 Pierce Township, Ohio 45157 (282804E070.)

Property Profile:

Acreage: 3.12 acres

Current Use: Single Family Residential

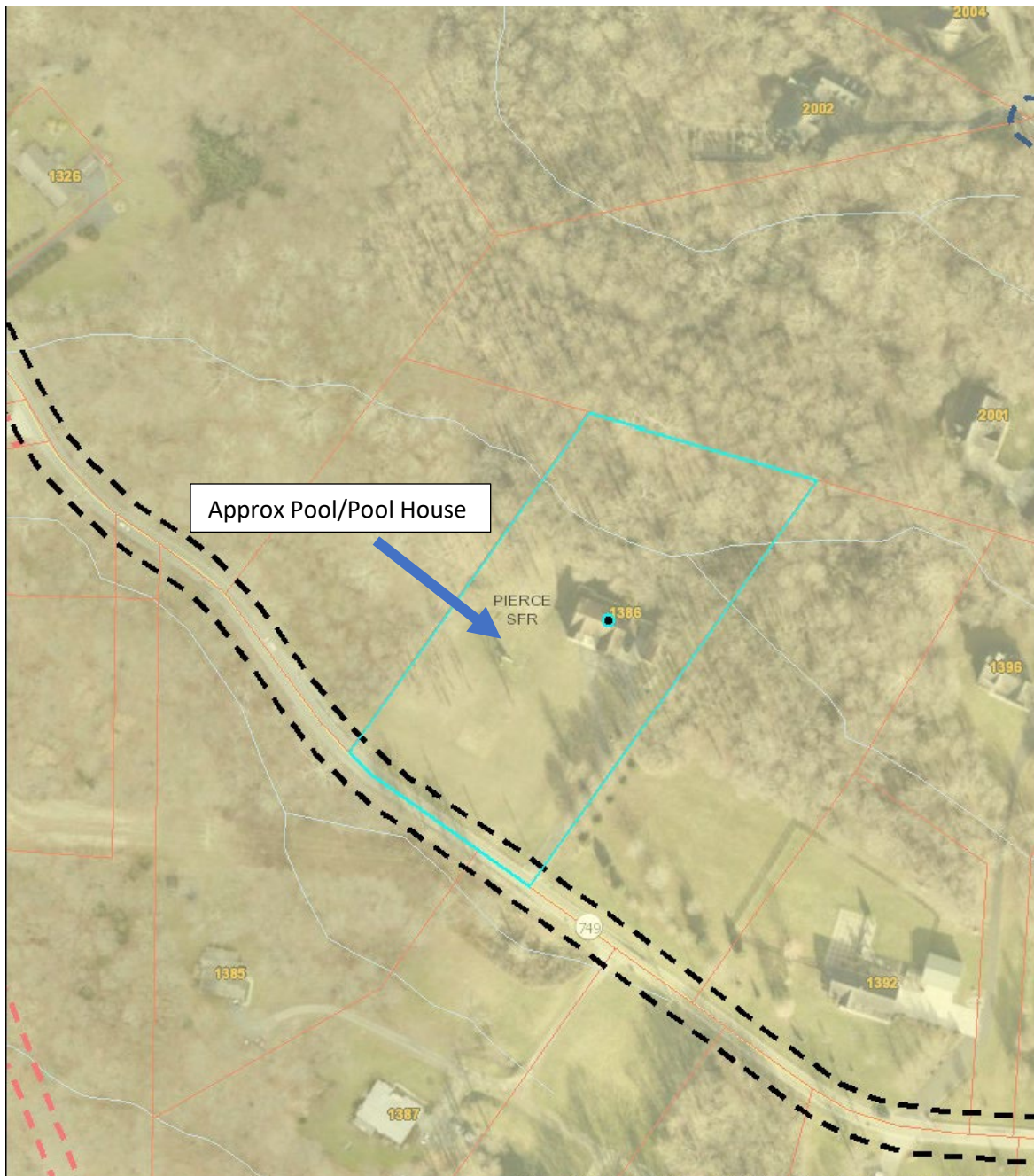
Zoning: Single Family Residential (SFR)

Prepared By: Eddie F. McCarthy, Planning and Zoning Administrator

Action Required: The BZA shall make a decision on the variance application in accordance with 3.08: Variances B) 2).

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Vicinity Map:



Staff Analysis and Recommendation:

Staff Analysis:

Staff has reviewed the proposal (Dated April 29, 2022) in accordance with 3.08: Variances B) 2), specifically:

The following factors shall be considered and weighed by the BZA to determine practical difficulty:

- (a) Whether special conditions and circumstances exist which are peculiar to the land or structure involved and which are not applicable generally to other lands or structures in the same zoning district; examples of such special conditions or circumstances are: exceptional irregularity, narrowness, shallowness or steepness of the lot, or adjacency to nonconforming and inharmonious uses, structures or conditions;

Staff Comment: *There appear to be unique circumstances on this property. Specifically, there appears to be significant slope (30% +/-) to the north and rear of the dwelling. Further, according to GIS data, staff notes a small stream that appears to traverse the property directly to the rear of the dwelling. It is advisable to minimize impact on this waterway. The septic is located in the side yard, per the applicant's documents.*

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- (b) Whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property without the variance;

Staff Comment: *The property may continue as a residential property in the absence of an approval.*

- (c) Whether the variance is substantial and is the minimum necessary to make possible the reasonable use of the land or structures;

Staff Comment: *The variance is substantial and appears to be the minimum necessary to best achieve the applicant's goals.*

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- (d) Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer substantial detriment as a result of the variance;

Staff Comment: *Character is unlikely to be affected. The pool and pool house will be set back significantly from the ROW; the neighborhood is also built at a low density. The pool house is also a rustic style, which appears in keeping with the rural natural of the area.*



- (e) Whether the variance would adversely affect the delivery of governmental services including, but not limited to water, sewer, police and fire protection, trash pickup;

Staff Comment: *No effect*

- (f) Whether special conditions or circumstances exist as a result of actions of the owner;

Staff Comment: *It does not appear that the owner created the circumstances for the variance.*

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- (g) Whether the property owner's predicament can feasibly be obviated through some method other than a variance;

Staff Comment: *The applicant could conceivably employ an engineer to attempt placement to the north of the dwelling. However, this method may be excessive.*

- (h) Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting a variance; and

Staff Comment: *The applicant's request appears to meet the spirit and intent of the Resolution.*

- (i) Whether the granting of the variance requested will confer on the applicant any special privilege that is denied by this regulation to other lands, structures, or buildings in the same district.

Staff Comment: *The applicant does not appear to be obtaining a special privilege as a result of this variance.*

No single factor listed above may control, and not all factors may be applicable in each case. Each case shall be determined on its own facts.

Staff Recommendation and Board of Zoning Appeals Decision:

Upon review of the foregoing, staff has determined that the literal enforcement of this resolution will result in practical difficulty in accordance with 3.08 of the Zoning Resolution.

Staff recommends that the Board of Zoning Appeals consider conditional approval of the application in accordance with 3.08: Variances B) 2), contingent upon the following:

1. The applicant must comply with all federal, state and local regulations.

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June 15, 2022
Case Number: BZA2022-003**

Determination(s):

3.08: Variances

A) Review Procedure The review procedure for variances shall be as follows:

1) Step 1 – Application

- (a) An application for variance may be made by the person having legal authority, including an authorized agent, or by a governmental officer, department, board or bureau. (b) The completed application shall include a copy of maps, data, and any other requirements specified in Section 3.04 (Common Review Requirements) and shall be submitted to the Zoning Inspector.
- (c) Each application shall be signed by the owners, or the authorized agent for the owner, attesting to the truth and correctness of all facts and information presented with the applications.
- (d) The Zoning Inspector shall transmit a copy of the application to the BZA.

2) Step 2 – Public Hearing with the Board of Zoning Appeals

- (a) The BZA shall fix a reasonable time for the public hearing on the variance application, give at least 10 days of notice in writing to the owner and owners of adjoining properties, and give notice of such public hearing by one publication in one or more newspapers of general circulation in the County at least 10 days before the date of such hearing.
- (b) At the hearing, the BZA may continue the hearing in order to obtain additional information or to cause further notice, as it deems proper to be substantially interested in said variance application. In the case of a continued hearing, persons previously notified and persons already heard need not be notified of the time of resumption of said hearing unless the BZA so decides.

3) Step 3 – Decision

- (a) Within 30 days after the hearing concludes (Step 2), the BZA shall make a decision on the variance application.
- (b) A certified copy of the BZA's decision shall be transmitted to all parties in interest. Such decision shall be binding upon the Zoning Inspector who shall incorporate the terms

**Pierce Township
Board of Zoning Appeals
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Case Number: BZA2022-003**

and conditions of the decision in the permit to the applicant or appellant, whenever the BZA authorizes a zoning permit.

(c) Failure to comply with the conditions of a decision shall be deemed a violation of this zoning resolution.

(d) Any party adversely affected by a decision of the BZA may appeal the decision to the Clermont County Court of Common Pleas.

B) Review Criteria

1) The BZA shall have the power to authorize upon appeal in specific cases, filed as hereinbefore provided, such variances from the provisions or requirements of this resolution as will not be contrary to the public interest. Where an applicant seeks a variance, said applicant shall be required to supply evidence that demonstrates that the literal enforcement of this resolution will result in practical difficulty for an area/dimensional variance or unnecessary hardship for a use variance. The following factors shall be considered and weighed by the BZA.

2) Area/Dimensional Variance

The following factors shall be considered and weighed by the BZA to determine practical difficulty:

(a) Whether special conditions and circumstances exist which are peculiar to the land or structure involved and which are not applicable generally to other lands or structures in the same zoning district; examples of such special conditions or circumstances are:

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exceptional irregularity, narrowness, shallowness or steepness of the lot, or adjacency to nonconforming and inharmonious uses, structures or conditions;

(b) Whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property without the variance;

(c) Whether the variance is substantial and is the minimum necessary to make possible the reasonable use of the land or structures;

(d) Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer substantial detriment as a result of the variance;

(e) Whether the variance would adversely affect the delivery of governmental services including, but not limited to water, sewer, police and fire protection, trash pickup;

(f) Whether special conditions or circumstances exist as a result of actions of the owner;

(g) Whether the property owner's predicament can feasibly be obviated through some method other than a variance;

(h) Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting a variance; and

(i) Whether the granting of the variance requested will confer on the applicant any special privilege that is denied by this regulation to other lands, structures, or buildings in the same district.

No single factor listed above may control, and not all factors may be applicable in each case. Each case shall be determined on its own facts.

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PIERCE TOWNSHIP ZONING OFFICE



Appeal No. BZA 2022-003
beth.elekes@gmail.com

Appeal from Decision of Zoning Inspector

BY:

Or

Request for Variance

email: kelekes@
sbglobal.net

Appeal and \$400.00 fee filed
With Zoning Inspector
On 4/29/2022

NOTICE: This appeal must be typewritten or printed and must be filled within thirty (30) day of the date of the decision being appealed.

TO THE PIERCE TOWNSHIP BOARD OF ZONING APPEALS

1. Darren Sutter Aquarian Pools
Name

631 Loveland Miamiville Rd 513-444-5783
Address Phone Number

Hereby requests the Board of Zoning Appeals to authorize issuance of a Zoning Certificate for:

Swimming Pool to be in Front yard & to
to Rear yard slope being steep Right at house.
Pool will be enclosed with a 4' Sec through
Fence. With Pool house Added

Or grant a variance on the property described herein.

Attached hereto is a copy of the decision rendered by the Zoning Inspector.

2. Applicant is Aquarian Pools (Contractor)
Capacity in which you appear

Of the property which is the subject of this appeal. Such property is located on the _____
North, South, East, West

Side of S+ Rt 749 and is known as No. 1386
Street or Road

State name of plot and lot number therein or amount of acreage, Section, Town, and Range number thereof:

282804 E070. 3.121 Acres
Single family Res. No R.

3. State the section or sections of the Zoning Resolution under which it is claimed this application or appeal may be granted: 4.05-1

4.05 F(13)

4. State fully the facts on which this application or appeal is based. (Attach additional sheets if necessary.)

Rear Yard is Sloped very Steep,
would not Allow for a Pool in Rear

5. Give names and addresses of the owners of all abutting lots or property as well as those on the other side of the street, or streets, immediately opposite said property: _____

Walker, Donald 1392 SR 749

Alsept, Krystal 1387 SR 749

Bohmer, Bradley 1385 SR 749

Nichols, Theodore 282804 E063

Royse, Robert 2001 Woodland Meadow

6. Is there any case pending in court or summons involving the use of the premises or the ownership

thereof? Yes _____ No X if yes, please explain: _____

7. Are there any restrictive covenants, any restrictions of record by deed or otherwise, which would prevent the proposed use of the premises? Yes _____ No X if yes, what are they?

8. Is there any petition pending to change the zoning regulations affecting these premises?

Yes _____ No X proposed change. _____

9. Has any previous application or appeal been filed in connection with these premises?

Yes _____ No X if yes, when? _____

10. Attach a plot layout, drawn to scale, showing the actual shape, and dimension of the lot, of the building and accessory building(s) existing and the lines within which the proposal building shall be erected or altered.

11. As owner(s) of the property located at 1386 SR 749, we hereby grant permission to Members of the Board of Zoning Appeals and Staff of Pierce Township to enter the property for visual inspection of the exterior premises. The purpose of said inspection is to review the existing conditions of the subject site as they are relate to the application filed with the Board of Zoning Appeals.

I hereby depose and say that all the above statements and the statements contained in all exhibits transmitted herewith are true.

[Signature]
Appellant

Subscribed and sworn to be me this 29th day of April,

20 22.

My commission expires Sept 1, 20 24.

[Signature]
Notary Public



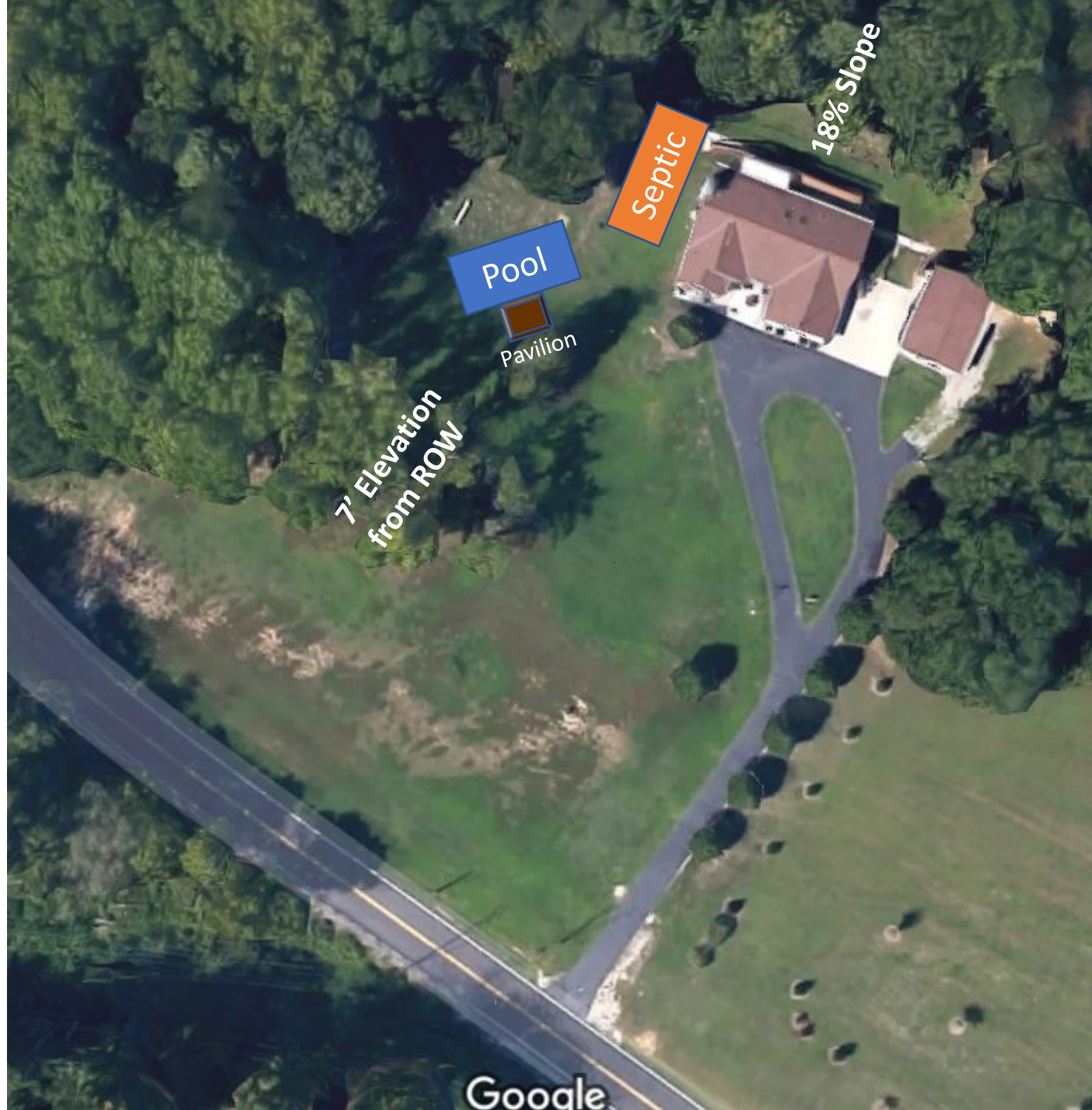
LAURA F. WACZOVSKY
Notary Public, State of Ohio
My Commission Expires Sep. 1, 2024
Recorded in Clermont County

Pool Variance

- Dimensional Variance for Zoning Resolution 4.05-1 (Yards Permitted) to build a swimming pool and pavilion outside of the rear yard
- Legaleaglecontractors.com consider a slope between 11 -20% to be moderate, 20% and beyond deemed steep.
- The slope behind the house is 18%
- The proposed location will not require any trees to be removed
- The septic system is in the open space in the side yard
- The land around the proposed area is wooded and there is 7 feet of elevation between the ROW and the pool which will reduce the visibility of the pool from the ROW and adjoining properties
- There was a similar variance that was approved
 - 3030 Sprester Hill Road 45157, Parcel #272803F018
 - Case Number: VC2021-003 Tuesday 8/10/2021 Zoning Appeals Hearing



Google





Scale: 1:1,128
Zoom Level: 19

60ft

-84.240 38.996 Degrees

Elevation Profile

Measure

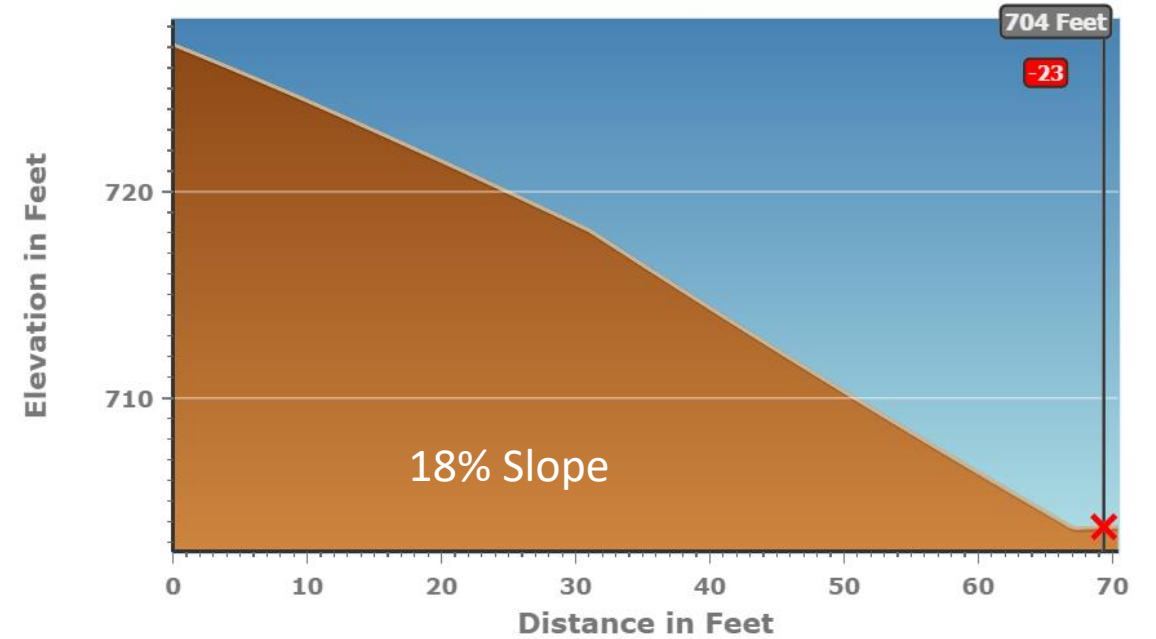
Profile Result

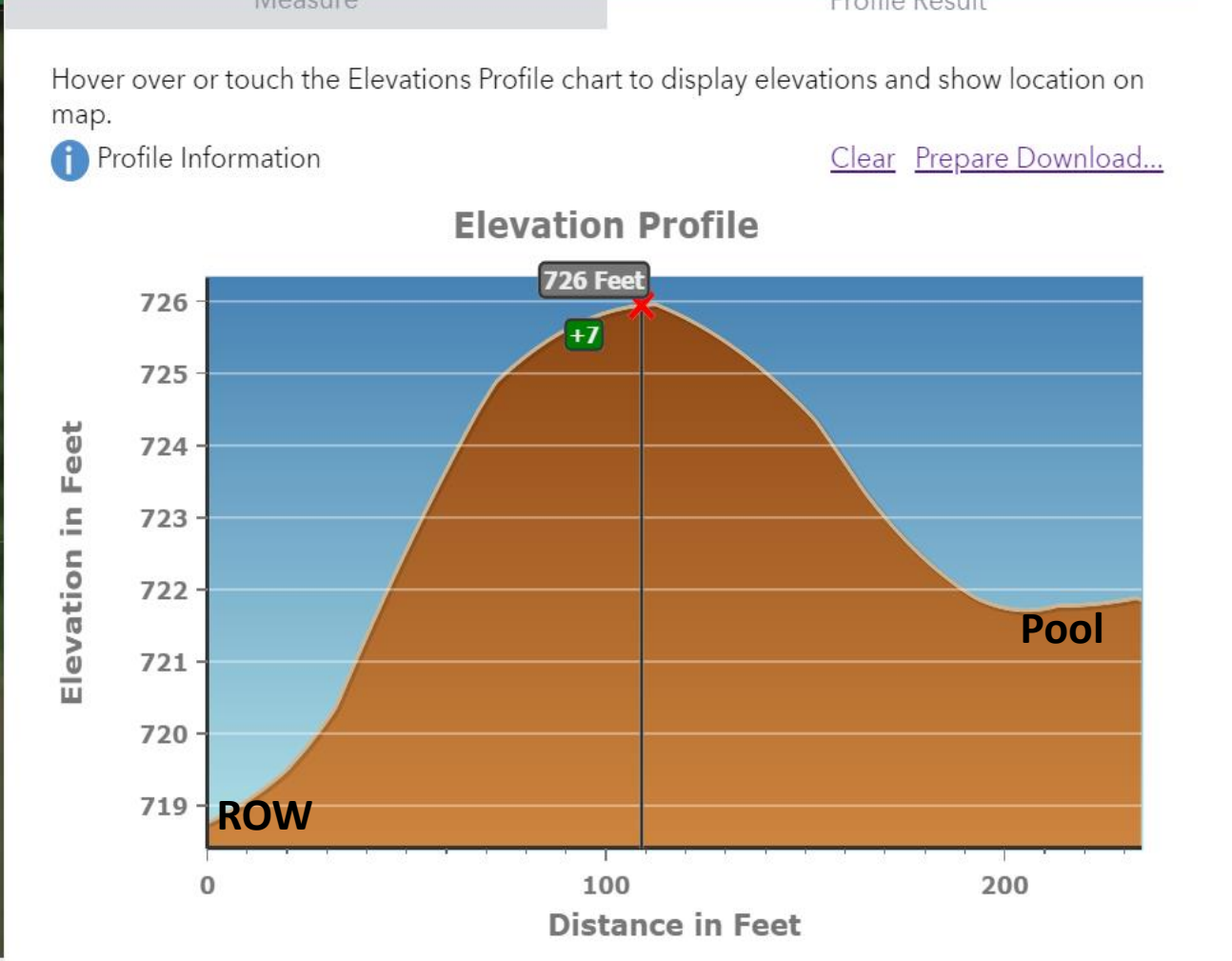
Hover over or touch the Elevations Profile chart to display elevations and show location on map.

Profile Information

[Clear](#) [Prepare Download...](#)

Elevation Profile





There is 7 feet of elevation between the ROW and the pool which will reduce the visibility of the pool from the ROW and adjoining properties

Elevation Profile



Measure

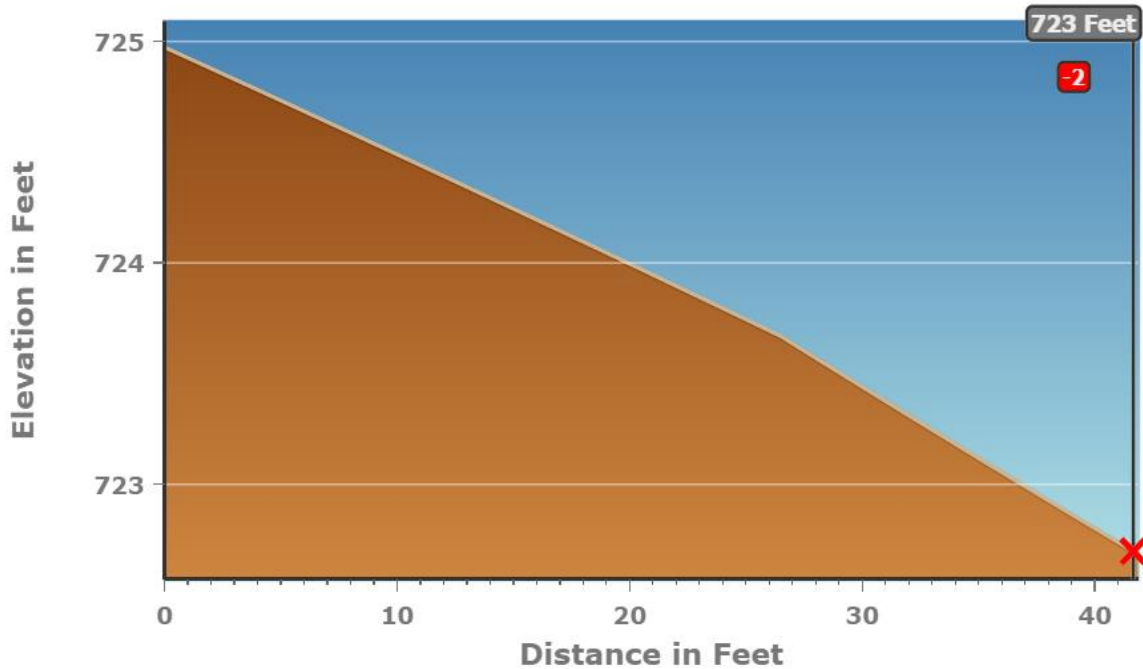
Profile Result

Hover over or touch the Elevations Profile chart to display elevations and show location on map.

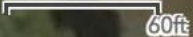
[Profile Information](#)

[Clear](#) [Prepare Download...](#)

Elevation Profile



Scale: 1:1,128
Zoom Level: 19



-84.240 38.996 Degrees

The proposed location will have the least environmental impact, requiring no trees to be removed.

ELEKES RESIDENCE

1386 TEN MILE RD
NEW RICHMOND, OH 45157

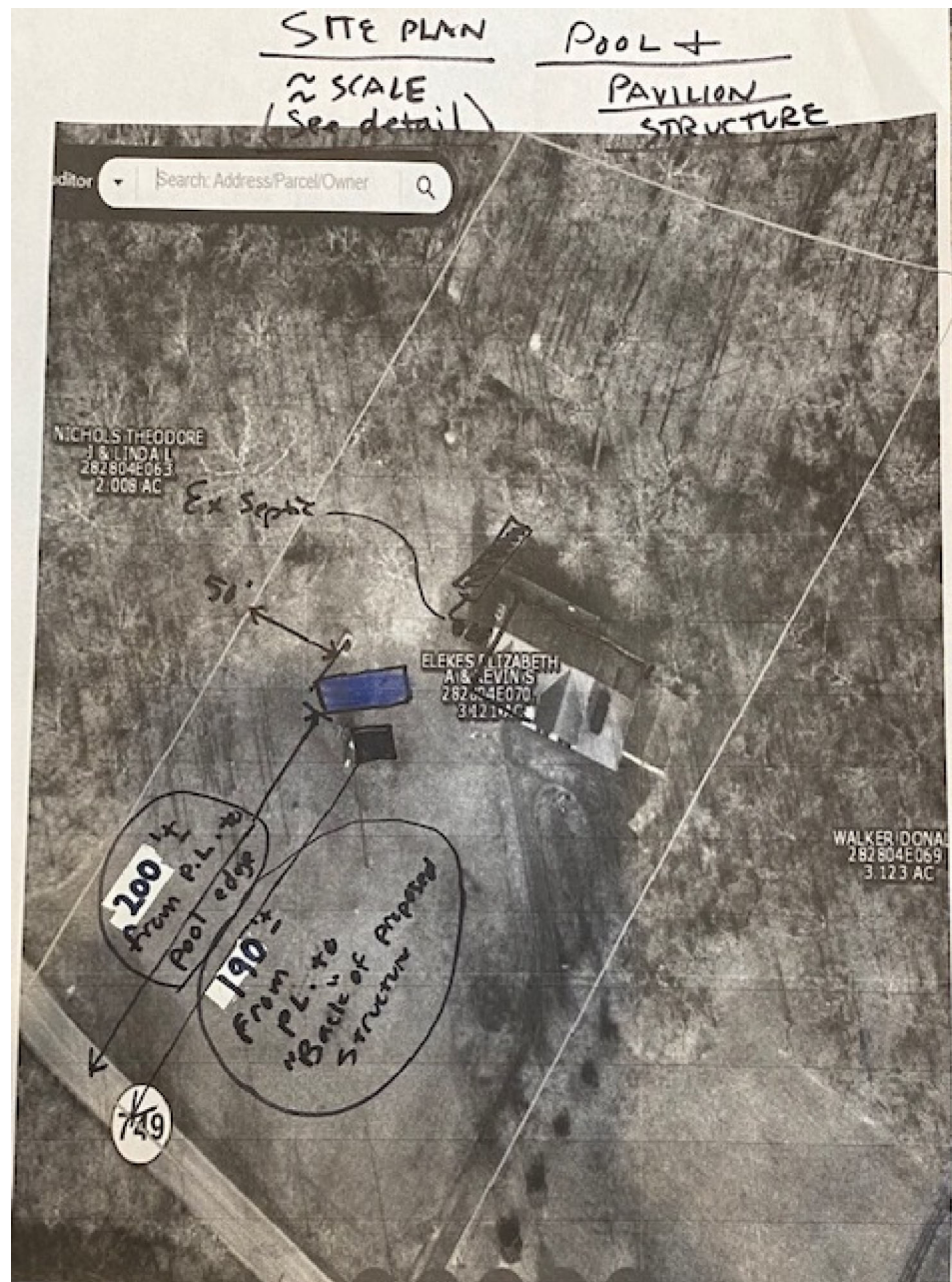


SITE PLAN

~ SCALE
(See detail)

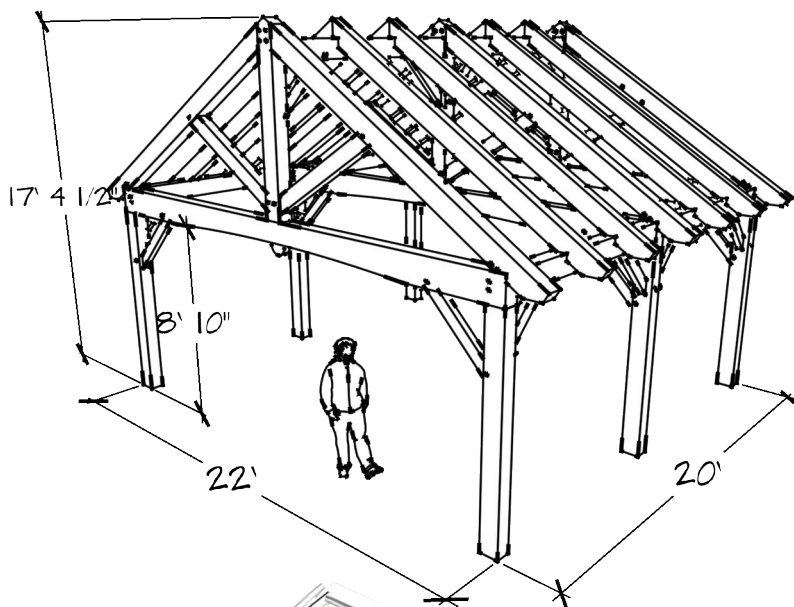
POOL +

PAVILION
STRUCTURE



KING POST TIMBER PAVILION

22' x 20' Model



This sustainable king post design can easily be added to existing structures as a patio cover, or independently as a pavilion. The spacious square footage provides room for several outdoor amenities, such as a custom fireplace, outdoor kitchen, and/or dining space.

Additional standard sizes and custom sizes are also available.



Woodhouse
THE TIMBER FRAME COMPANY™

3295 Route 549, PO Box 219
Mansfield, PA 16933
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