

**QUINTON TOWNSHIP PLANNING BOARD**

**RESOLUTION NO.: 2017-09**

**DECISION ON APPEAL OF  
THOMAS MCKEE**

**RE: BLOCK 14, LOT 6.02 (34 Quinton Alloway Road)**

**(Zoning Permit Application No. 011817-2)**

WHEREAS, an appeal of a decision of the Quinton Township Zoning Officer was filed with the Quinton Township Planning Board pursuant to *N.J.S.A. 40:55D-70.a.* and Quinton Township Land Use Ordinance §170-60.A. by THOMAS MCKEE, whose mailing address is 34 Quinton Alloway Road, Salem, New Jersey 08079 (the appellant), pertaining to the Zoning Officer's denial of zoning permit application no. 011817-2 for a proposed 34' x 40' in-ground swimming pool at the appellant's property which is located at that address and designated as Block 14, Lot 6.02 on the Quinton Township tax map; and

WHEREAS, at its February 14, 2017 regular meeting the Board heard testimony and representations from the appellant and Robert L. Schmid (the Quinton Township Zoning Officer), discussed the appeal with the Planning Board Solicitor, and provided an opportunity for interested members of the public to make statements and ask questions regarding the appeal; and

WHEREAS, after hearing the above testimony and representations, and reviewing the appellant's January 18, 2017 zoning permit application (which included a copy of a hand-marked survey of the property dated February 14, 2006), the Zoning Officer's January 18, 2017 zoning permit denial, and applicable sections of the Quinton Township Land Use Ordinance ("Ordinance"), the Board made the following findings and conclusions:


1. The property is a residential lot of approximately 5.45 acres located in a P-BR zoning district at 34 Quinton Alloway Road, designated as Lot 6.02 in Tax Map Block 14. The survey that was included with the appellant's zoning permit application is marked to depict the location of the appellant's proposed 34' x 40' in-ground swimming pool, and includes a depiction of the concrete apron that would surround the pool, which apron is indicated as being set back 38 feet from the property's east lot line. The Zoning Officer denied the application because the concrete apron as proposed would not conform to the 50-foot minimum side yard setback that is required by Ordinance §170-24.D.
2. When asked to explain the grounds of his appeal the appellant testified that he believed the 50-foot side yard setback should be measured from the pool water's edge rather than from the edge of the concrete apron that surrounds the pool. The applicant further explained that his pool contractor had told him this is the way pool setbacks are measured in many New Jersey municipalities.
3. The Zoning Officer testified that, as set forth in the zoning permit denial, his decision was

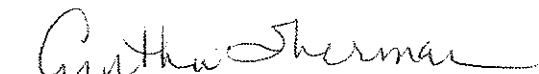
based upon his reading of the 50-foot P-BR zoning district side yard setback requirement specified in Ordinance §170-24.D. in connection with the following other Ordinance sections:

- The §170-7.C. definition of “SWIMMING POOL, PRIVATE RESIDENTIAL” provides that a swimming pool “shall include all buildings, structures, equipment and appurtenances thereto.”
  - Ordinance §170-38.H.(2) provides that swimming pools “shall comply with the minimum setback and yard requirements for principal structures.”
4. The Planning Board Solicitor explained that New Jersey municipalities are permitted to establish their own development regulations for pools, and the Quinton Township Zoning Officer is required to look only to the Quinton Township Land Use Ordinance for guidance in determining whether to grant or deny a zoning permit application. The Planning Board Solicitor explained that wherever there is any reasonable question as to the appropriateness of issuing a zoning permit the application should be denied. The Planning Board Solicitor stated that he agreed with the Zoning Officer’s plain reading of the applicable Ordinance sections, and also with the Zoning Officer’s decision to deny the appellant’s zoning permit application based on that reading, because the clear intent of the Ordinance is to cause every component of a residential swimming pool complex to conform to all yard setbacks. Accordingly, the Planning Board Solicitor recommended that the Board affirm the Zoning Officer’s denial of the appellant’s zoning permit application.
  5. No member of the public appeared with respect to the appeal.
  6. Based on the foregoing the Board agrees that the Zoning Officer’s decision should be affirmed, but also believes that the Quinton Township Committee should be informed of this matter in order to consider whether and to what extent the Land Use Ordinance might be amended to relax these pool setback requirements.

NOW, THEREFORE, BE IT RESOLVED, by the Quinton Township Planning Board, that the Zoning Permit Denial of application no. 011817-2 dated January 18, 2017 is hereby affirmed. The Planning Board Secretary is hereby directed to send a complete copy of this signed resolution to the appellant, the Zoning Officer, and the Quinton Township Clerk for review by the Quinton Township Committee.

The undersigned Chairperson of the Quinton Township Planning Board hereby certifies that the above is a true copy of a resolution adopted by said Board on April 11, 2017 to memorialize action taken on February 14, 2017.

*Attest.*  
  
Bonita K. Bell, Secretary  
Quinton Township Planning Board

  
Cynthia Sherman, Chairperson  
Quinton Township Planning Board

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