

May 15, 20213

To: Village of Elm Grove

From: Akel & Michelle Akel, 1900 Westmoor Terrace, 904-534-9433

Subject: Variance to Ordinance for Semi-Inground Pool

Executive Summary: I am requesting a variance to Ordinance 335-88 Sections D-8-d/e that restrict the construction of a new pool. Because of how my lot is situated, and further exasperated by my neighbor's driveway redesign, my backyard retains too much water to prudently install an inground pool. I am requesting permission to construct a semi-inground pool that will be half inground and half above ground, but completely surrounded by a new composite board deck, which will be tied into the house.

Background Conditions: My house and lot naturally sit below street level and gradually slopes down towards the back of the lot, with a retention pond two houses over. Prior to our ownership of the house, our neighbors south of us at 1850 Westmoor Terrace redesigned their front yard and driveway. During this redesign, they sloped their entire front lawn towards their driveway, where they constructed a culvert to drain all of their rainwater under their driveway and into our yard. This causes our front yard to constantly flood. The prior residences of our home challenged this modification with the village but were unsuccessful. Since moving in, I have tried many natural modifications to redirect the flow of water so that my basement does not flood. This includes building a berm in the front yard to guide the water around the house to the backyard and a further swale to guide the water towards the retention pond. I have been moderately successful, but the water constantly sits in my backyard, making it consistently wet & largely unusable at times. I even had to spend money to relocate my children's' playground equipment to higher ground so they could utilize it.

Below is a picture of the culvert coming into my yard from under my neighbor's driveway:

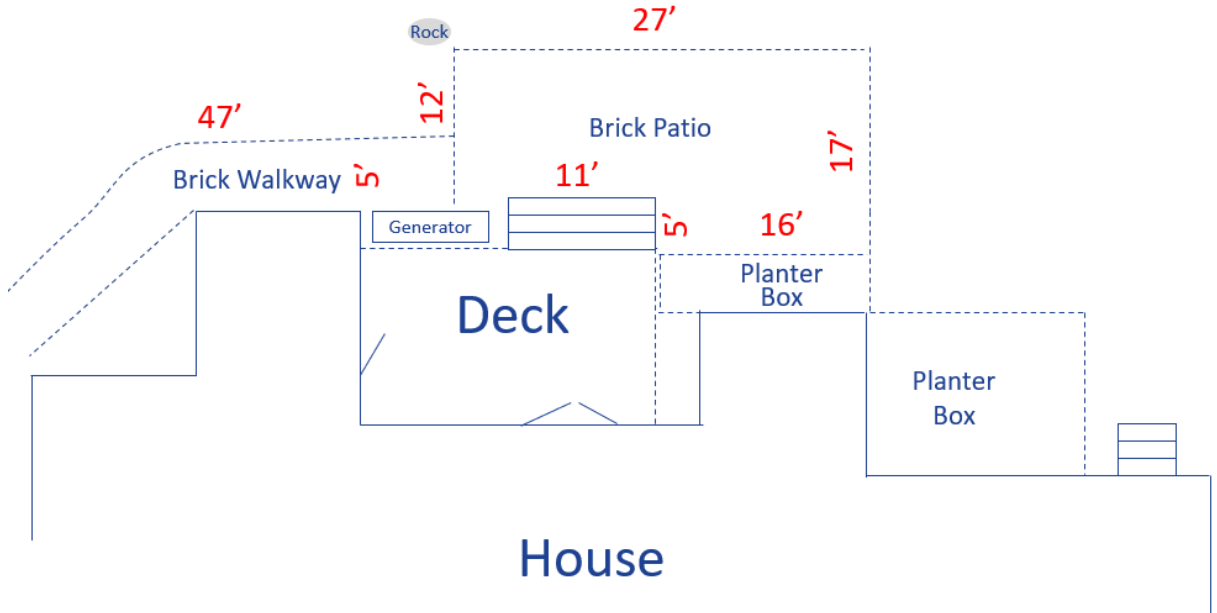


Below are a few pictures of my yard followed by a rainstorm.



I have been interested in constructing an inground pool in our backyard, but I have been given advice from pool builders that I would consistently have trouble with the functioning of the pool because of how much water my yard retains. I have recently discovered and researched semi-inground pools and it seems this would be the ideal solution for my yard. This semi-inground pool would be installed half below the level of the ground and half above the ground... making it ~35" above ground level. I planned to position it in the middle of a newly constructed deck that would replace an existing deck that is attached to the house. However, per the existing ordinances, I am prohibited from doing so.

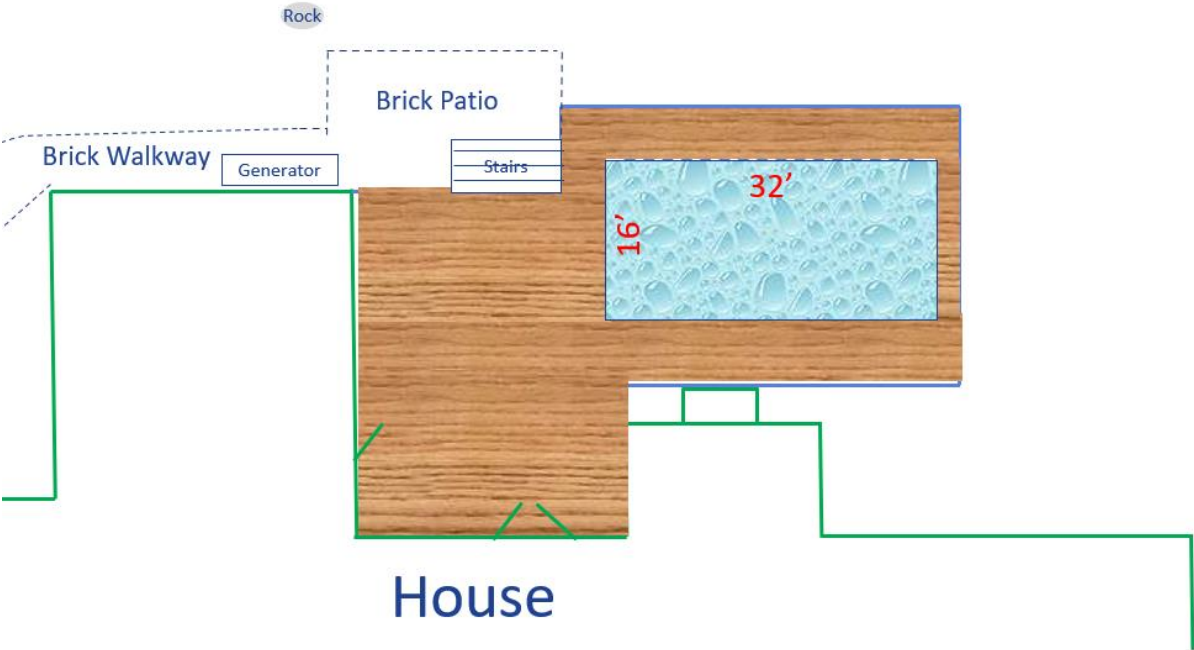
Existing layout: Currently, the backdoor of the house leads directly to a two-tiered wooden deck and then stairs to a brick patio... as outlined below.



Below is an aerial view of the property:



Proposal: The proposal is to construct a semi-inground pool by [Hansen Pool & Spa](#), a 5-star rated pool builder in Wisconsin, and surround it completely by a composite board deck that would be attached to the house. Below is a simple rendering of the layout.



For additional information, below is what the pool looks like mid-construction so that you can see how it is half buried.



Below are a couple examples of finished pools constructed by Hansen's Pool & Spa that incorporates the decking around the pool, with fence.



Below is a placement of the pool and deck from an aerial view incorporating the property setbacks. As you can see, there is ample space on my property for this construct.



Setbacks shown in red

Findings Required to Grant a Variance

1) **Preservation of Intent**. No variance shall be granted that is not consistent with the purpose and intent of the regulations for the district in which the development is located. No variance shall have the effect of permitting a use in any district that is not a stated permitted use, accessory use, or conditional use in that particular district.

I am proposing no change to the intent of this property... purely improving the property for better use & will lead to a more appealing property longer term.

2) **Exceptional Circumstances**. There must be exceptional, extraordinary, or unusual circumstances or conditions applying to the lot or parcel, structure, use, or intended use that do not apply generally to other properties or uses in the same district and the granting of the variance would not be of so general or recurrent nature as to suggest that the Zoning Chapter should be changed.

There are indeed exceptional circumstances on this property. As outlining above, the wetness of our yard does not allow for a traditional inground pool.

3) **Economic hardship and self-imposed hardship are not grounds for a variance**. No variance shall be granted solely on the basis of economic gain or loss. Self-imposed hardships shall not be considered as grounds for the granting of a variance.

No economic hardship exists. On the contrary, I'm looking to spend money to improve the property.

4) **Preservation of Property Rights**. Such variance is necessary for the preservation and enjoyment of substantial property rights possessed by other properties in the same district and same vicinity.

This variance is required for the enjoyment of substantial property rights as similar properties that do not have the wetness of the property. There are many pools in Elm Grove and this is the only way I have discovered to share that same enjoyment for my children.

5) **Absence of Detriment**. Such variance shall not create substantial detriment to adjacent property and will not materially impair or be contrary to the purpose and spirit of this chapter or the public interest.

There will be NO detriment to the adjacent properties. This will improve the value of the property which is a positive for all neighbors. In fact, our neighbors to the north of us have been very vocal about how they see this improvement as a positive for them. We also have trees surrounding our lot so at least half of the year, this will not be visible to any neighbor.