



Charleston Board of Zoning Appeals

AGENDA

8:30 a.m., Thursday, June 10, 2021

Join via internet at:

<https://us02web.zoom.us/j/82164944710?pwd=eUVuSkNlZm1CdERodXFqUyYttb01lUT09>

Or call: 312-626-6799 or 929-436-2866 or 346-248-7799

Webinar ID: 821 6494 4710

Password: 091578

I. Items for Review

VAR-21-2993

Application of William & Lori McNabb requesting a variance in order install an accessory structure on a river lot associated with the property located at **3001 Kanawha Avenue, SE.**

II. Approval of minutes for the May 13, 2021 hearing.



**Board of Zoning Appeals
PUBLIC HEARING NOTICE**

Until further notice, BZA hearings will be accessible via Zoom.

Case Descriptions

VAR-21-2993: Application of William & Lori McNabb requesting a variance in order install an accessory structure on a river lot associated with the property located at **3001 Kanawha Avenue, SE.**

The file (including the application, site plan and other supporting documentation) is available for your inspection online at <https://charlestonwv.civicclerk.com/>. If you have questions, email lori.brannon@cityofcharleston.org or call 304-348-8105.

Hearing Details

WHEN: 8:30 a.m.

Thursday, June 10, 2021

WHERE: Join via internet at:

<https://us02web.zoom.us/j/82164944710?pwd=eUVuSkNlZm1CdERodXFqUyYttb01UUT09>

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Public Participation

Anyone who wishes to comment on the case described above is encouraged to do so in one of the following ways:

1. Send a written statement to lori.brannon@cityofcharleston.org. These statements will become a part of the record and will be shared with members of the Board prior to the hearing.
2. Speak directly to the Board by joining the meeting via Zoom using the details listed above. ***Please provide your name and the phone number or e-mail address you'll be using to join the hearing to lori.brannon@cityofcharleston.org by 5 pm on Tuesday, June 8, 2021.***

As a matter of general policy these proceedings will not be transcribed by the Board. Anyone wishing a legal transcript must provide a court reporter at his/her own expense.

 Board of Zoning Appeals
Application for Variance

BZA # _____

Hearing Date: _____

Applicant Information	Property Information
Name: <u>William & Lori McNabb</u>	Address:
Address: <u>3001 Kanawha Ave. SE Charleston 25304</u>	Tax Map and Parcel:
Phone: <u>304-542-0573 / 304-542-6615</u>	Zoning District:
Agent Name, Address and Phone Number: (if other than applicant) <u>lori.mcnabb@yahoo.com</u>	Property Owner and Mailing Address: (if other than applicant)

INSTRUCTIONS: This application must be typed or legibly printed and filed with the Planning Department in person or by mail to 915 Quarrier Street, Suite 1 Charleston, WV 25301. The following items must accompany this application:

1. a site plan drawn to scale;
2. a list of the owners, with their mailing addresses, of the properties within a 100 foot radius of the property for which the variance is being sought; and
3. \$125.00 filing fee in the form of cash, personal check or money order made payable to the City of Charleston.

You are also encouraged to submit any additional information, including photographs, elevations, testimonials or other documentation which may support your application. You or your representative must be present at the scheduled public hearing in order to present your request and answer questions.

THE PLANNING DEPARTMENT WILL NOT ACCEPT INCOMPLETE APPLICATIONS.

A variance is a method by which a property owner receives permission to vary from the development standards established in the Zoning Ordinance governing such matters as building location, building dimensions, setback requirements, placement and quantity of parking, landscaping, signage, and other features included in site design. **Please describe your variance request.**

To put a pool on the river lot
across from our house. It would sit over the hill out
of site.

Applicable Section(s) of the Zoning Ordinance Section 3-080 (a) (1)

Please describe the proposed work to be done on the property. We want to put a pool
over the hill not visible from the street. It would be
less visible than the other accessories on adjoining
river lots. Pool would have a 4 foot barrier
around it with a locked gate.

IMPORTANT: According to Section 8A of the Code of the State of West Virginia and Section 29-040 of the City of Charleston's Zoning Ordinance, the Board of Zoning Appeals may grant a variance if and only if **ALL** of the following four criteria can be satisfied:

- 1.) The variance, if granted, will not adversely affect the public health, safety and welfare or the rights of adjacent property owners or residents; and,
- 2.) The variance arises from special conditions or attributes which pertain to the property for which a variance is being sought and which were not created by the person or entity seeking the variance; and,
- 3.) The variance, if granted, would eliminate an unnecessary hardship and permit a reasonable use of the land; and,
- 4.) The variance, if granted, will allow the intent of the Zoning Ordinance to be observed and substantial justice done.

1.) If granted, your variance must not adversely affect the public health, safety and welfare or the rights of adjacent property owners or residents. For example, public safety cannot be compromised by limiting access for emergency vehicles, and neighboring property owners must not be hindered in the use their properties in any manner permitted in the Zoning Ordinance. If your variance request is granted, how will others in the area be affected?

The pool would be over the hill on our river lot not visible from the street. The lot to the left is not occupied, it is the city right away, the lot to the right of us has a barrier of trees and has a small building located on it. The pool would not exceed the size of 12x26, ~~100~~

2.) Your request must arise from special conditions or attributes which pertain to the subject property and which you did not create. The size, shape and topography of your lot are examples of the physical conditions which may satisfy this criterion. In comparison with other properties in the vicinity and under the same zoning regulations, what is unusual or different about the subject property?

Our lot at our home is a corner lot, therefore the rule states we are not permitted to add any accessories to our yard, and the side corner lot is only yard we have besides river lot. The other houses on our street face the river, they have backyards. The other river lots have accessories such as buildings, decks, bar area and spa. The pool would be less invasive than the other accessories on adjoining river lots.

3.) **An unnecessary hardship is neither personal nor financial in nature.** In this application, an unnecessary hardship is a problem created by some feature of the land which prevents the owner from making reasonable use of the property as permitted by the Zoning Ordinance. The following three questions help to determine if there is an unnecessary hardship with regard to your property.

Without a variance, are you deprived of all beneficial use of your land? This is a similar use that is consistent w/ the other accessories on neighborhood river lots. We bought our house w/ the intention of adding a pool not knowing we could not use our corner lot. If we are not permitted to put a pool or deck on our property, we will not be able to utilize any of our property.

Is your situation due to unique circumstances that are not shared by other land in the district? We are asking to add an accessory which is the same that everyone else w/ accessories has done also.

Would approval of your variance request alter the essential character of the surrounding neighborhood or community? No, it is over the hill and would not be seen from the street.

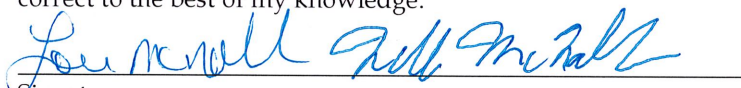
4.) The general purpose and intent of the Zoning Ordinance of the City of Charleston is to protect and promote the public health, safety, convenience, morals and general welfare. For more specific information in regard to the scope and intent of the Zoning Ordinance, please see Section 1-020 as well as the section from which you are requesting this variance. Will approval of the variance allow the intent of the Zoning Ordinance to be observed?

Yes, the pool would be going on our river lot property that is located right across the street over the hill. It would not be visible to anyone walking or driving by.

Substantial justice is the idea that a standard of fairness has been satisfied according to the substance of the law. Does your variance request represent the least deviation from the Zoning Ordinance necessary to achieve an outcome that is fair to both you and to your community?

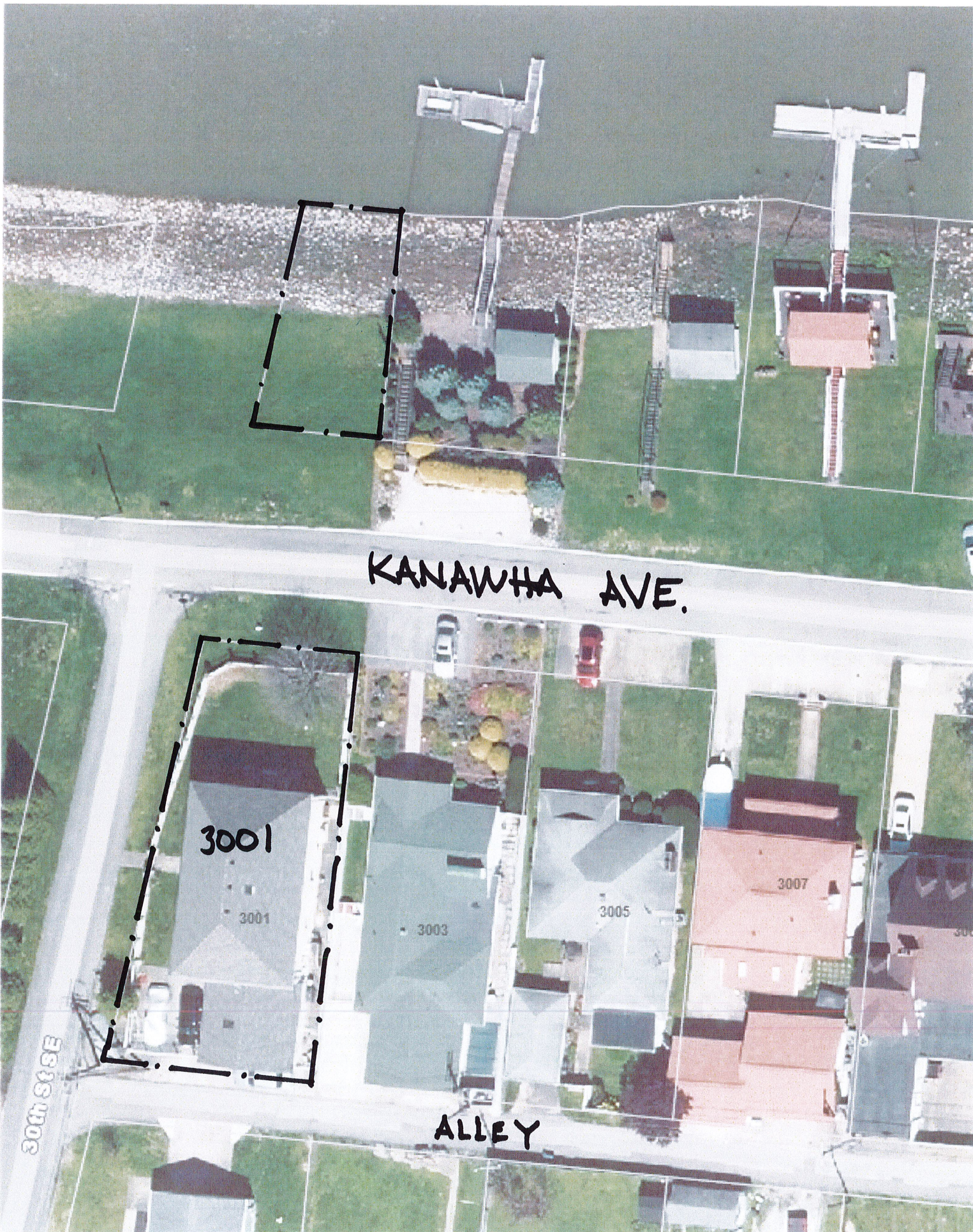
The pool is less invasive than the other accessories on the adjoining river lots. It would not interfere with anyone's air, light or visual of the river.

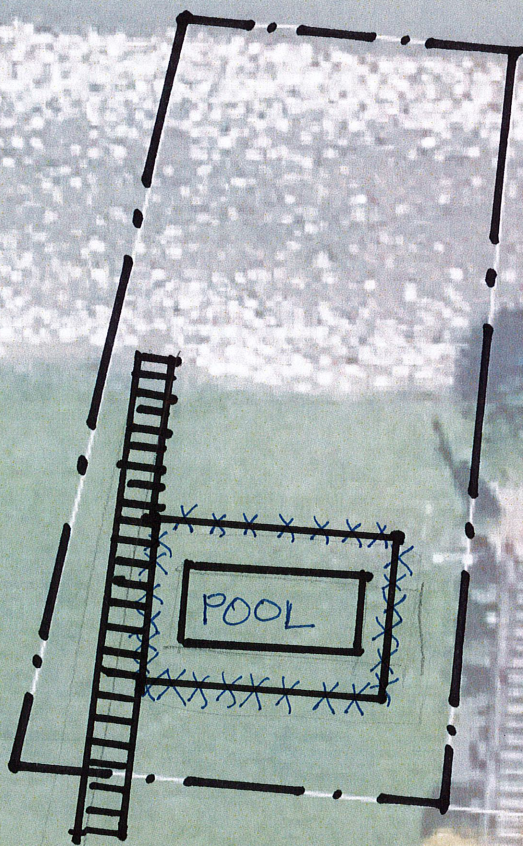
I hereby affirm that all of the statements and information contained in or filed with this application are true and correct to the best of my knowledge.


Signature

4-29-21
Date

Planning Department Use Only	
The following is a list of related cases:	
The following is a list of zoning ordinance violations, building code violations and enforcement actions relating to the subject property:	
Application reviewed by:	
Action: ☐ Approved ☐ Rejected	
If approved, were there any specific conditions or limitations imposed by the BZA?	
Planning Official Signature and Title	
Date	





KANAWHA AVE.