



City of Dover
Board of Adjustment
July 16, 2025
V-25-03

Title: Property at 506 Pear St - Application for a Variance

Location: West side of Pear Street, North of William Street

Address: 506 Pear St, Dover, DE

Owner: Kelsey Short

Tax Parcel: ED-05-067.20-01-07.00-000

Application Date: June 13, 2025

Present Zoning: RG-1 (General Residence Zone)

Present Use: One-family detached house

Proposed Use: One-family detached house with above-ground swimming pool

Reviewed By: Chris Salzano, AICP, Planner II

Variance Type: Area Variance

Variances Requested: Request has been made for a Variance from the requirements of *Zoning Ordinance*, Article 5 §1.114 to allow for the edge of the water containment portion of the pool to be 10 feet (less than the 15 feet required) from the side property line.

Project Description

The property is located at 506 Pear Street. A Request has been made for a Variance from the requirements of *Zoning Ordinance*, Article 5 §1.114, as associated with a proposed above-ground swimming pool. The Variance Request seeks a reduction of the minimum setback from 15 feet to 10 feet from the side property line for the edge of the water containment portion of the swimming pool. The property is zoned RG-1 (General Residence Zone). The owner of record is Kelsey Short. Property Address: 506 Pear Street, Dover, DE. The Tax Parcel ID is ED-05-067.20-01-07.00-000.

Property and Adjacent Properties: Zoning and Land Use

The property is zoned RG-1 (General Residence Zone). The property survey (Exhibit C) lists the property as 5,250 SF+/- . The property contains a One-family detached dwelling. The adjacent properties on Pear Street are zoned RG-1, and the lots to the immediate north and south are One-family homes, the lot to the west is zoned M and is a moving company. There is another group of One-family homes east across the street on Pear Street, they are zoned R-8 (One-family Residence Zone).

A Map Exhibit (Exhibit D) prepared by Staff is attached to this Report. It shows the subject property's location and the surrounding zoning. Map Exhibit E shows an aerial view of the area.

Code Citations

RG-1 (General Residence Zone)

The subject project area is zoned RG-1 (General Residence Zone). *Zoning Ordinance*, Article 3 §2 lists the permitted uses, conditional uses, and other provisions of the RG-1 zone. Per the *Zoning Ordinance*, Article 3 §2 notes that One-family detached dwellings are a permitted use. This section references that permitted uses include all uses permitted in the one-family residences zones as described in Article 3 §1. *Zoning Ordinance*, Article 3 §1.15 (b) allows for a pool that is incidental to the residential use and not operated for personal gain.

Swimming Pools

Requirements for swimming pools are addressed in *Zoning Ordinance*, Article 5 §1.11.

Article 5, Section 1. - Supplementary regulations applying to residence zones

1.11 *Swimming* pools.

1.111 *Definition*. For the purposes of this section, swimming pools shall be defined as any pool, tank, depression, or excavation in or above ground, or other structure which shall cause retaining of water over a greater depth than 24 inches.

1.112 *Safety*. All swimming pools as defined in this section must conform to the requirements of Dover Code, Chapter 22—Buildings and Building Regulations.

1.113 *Placement*. Swimming pools shall be permitted to be established in the side and rear yard, but shall be prohibited from placement between the principal structure and the street.

1.114 *Setback*. The edge of the swimming pool, specifically referring to the edge of the water containment portion of the pool, shall be no less than 15 feet away from all property lines. All associated structures, buildings, and pavement related to the swimming pool shall be no less than five feet away from all property lines.

Applicant's Proposed Project and Variances Requested

The Applicant has submitted a property survey (Exhibit C) that shows the lot, location of the house and other improvements on the lot, and the proposed pool with the approximate dimensions and proposed setback from the property line. The Exhibit shows a 10-foot setback between the pool and the side property line. The proposed above ground pool is round with a 15-foot diameter.

The Applicant described the project as follows: Installation of 15' x 48" pool
The Applicant also provided a series of Photographs; See Exhibit F.

Exceptional Practical Difficulties Tests

Zoning Ordinance, Article 9 §2 dictates the specific powers and duties of the Board of Adjustment with regard to granting variances. Specifically, the Board must determine:

2.1 Variance – The board shall have the authority to authorize variances from provisions of the Zoning Ordinance that are not contrary to public interest where the board determines that a literal interpretation of the Zoning Ordinance would result in undue hardship or exceptional practical difficulties to the applicant. In granting variances, the board shall determine that the spirit of the Zoning Ordinance is observed and substantial justice is done.

2.11 Area Variance. A variance shall be considered an area variance if it relates to bulk standards, signage regulations, and other provisions of the Zoning Ordinance that address lot layout, buffers, and dimensions. In considering a request for an area variance, the board shall evaluate the following criteria and document them in their findings of fact:

- (a) the nature of the zone in which the property lies;
- (b) the character of the immediate vicinity and the contained uses therein;
- (c) whether, if the restriction upon the applicant's property were removed, such removal would seriously affect neighboring properties and uses; and
- (d) whether, if the restriction is not removed, the restriction would create unnecessary hardship or exceptional practical difficulty for the owner in his efforts to make normal improvements in the character of that use of the property that is a permitted use under the provisions of the Zoning Ordinance.

Review of Application

As part of the Application, the applicant was asked to summarize how the requested Variance relates to the above criteria. The applicant's responses are provided in Exhibit B – Written Narrative listed below. The Staff assessment of the application in accordance with the required criteria is provided below.

1. The nature of the zone in which the property lies.

Applicant Response:

The nature of the zone the property lies on is RG-1.

Staff Response:

The subject property is zoned RG-1 (General Residence Zone) and developed as a residential lot with a one-family detached dwelling. The property was developed prior to 1937 prior to the City of Dover's adoption of the *Zoning Ordinance*. In the *Zoning Ordinance*, Article 4 §1.11, the accessory use of a swimming pool is permitted within residential zones.

2. The character of the immediate vicinity and the contained uses therein.

Applicant Response: The character of the immediate vicinity contains two neighbors. I have a neighbor to the left of me that is divided by a vinyl privacy fence. I have a neighbor to the right of me that is also divided by a vinyl privacy fence. To the rear of my property is a City of Dover building that is separated by a patch of woods. The front of my property is the street that divides me from another row of homes. Both neighbors have been notified of my new vinyl fence install as well as intentions of a pool being placed that is gated.

Staff Response: The Pear Street neighborhood consists of One-family residences, including One-family detached dwellings. The area also includes some businesses and institutional uses, including Berry Van Lines, Fairview Elementary School, the City of Dover Warehouse Operations Facility, and the Campus Community School. Some of the nearby dwellings include swimming pools, and many include fenced yards. The accessory use of a swimming pool in a residential yard is compatible with the character of the immediate vicinity and surrounding residential and commercial uses.

3. Whether, if the restriction upon the applicant's property were removed, such removal would seriously affect neighboring properties and uses.

Applicant Response: If restriction on property was removed it would not affect neighboring properties. The pool I intend to get is the smallest one I could find to accommodate my family. It does not hold enough water to affect neighboring homes with vinyl fencing dividing our properties.

Staff Response: As stated by the applicant, the above-ground pool will be located behind a six-foot-tall privacy fence in the rear yard of the property. The neighborhood consists of one-story houses pushed to the street and the pool is 30+ feet away from any neighboring homes. Based on specifications provided in the Narrative (Exhibit B), the total height of the above-ground pool is four feet. If the variance is granted, the pool would be ten feet from the property line on each side and behind the six-foot-tall vinyl privacy fence limiting visibility. Therefore, it would not seriously affect the neighboring properties at 502 and 510 Pear Street.

4. Whether, if the restriction is not removed, the restriction would create unnecessary hardship or exceptional practical difficulty for the owner in his efforts to make normal improvements in the character of that use of the property that is a permitted use under the provisions of the *Zoning Ordinance*.

Applicant Response: If the restriction was not removed it would create an unnecessary hardship because a vinyl privacy fence was installed with intentions of a pool to be placed. I bought the property with the goal of eventually getting a pool and creating a backyard for the family I was not aware that my property was not wide enough to accommodate a pool per City of Dover regulations. Pictures are provided of my yard to show intended pool placement and surrounding areas. (See exhibit F for photographs)

Staff Response:

The *Zoning Ordinance* allows for swimming pools as an accessory use on residential lots. Article 5 §1.11 provides specific requirements for the placement of swimming pools on

residential lots. The proposed swimming pool meets all of these criteria except for the required 15-foot distance for the water containment area from property lines. As proposed, the water containment would be 10 feet from the property lines. In reviewing the applicant's submission, in particular Exhibit C, it is clear that the proposed pool location on the property is where it would provide the maximum distance from the property lines. The width of the property parcel is 35 feet and the pool setback requirements of the City of Dover as outlined in the *Zoning Ordinance* Article 4 §1.11 are 15 feet this results in available width of 5 feet for a pool. If the Variance is not granted, the property owners likely would not be able to place the swimming pool on the property, creating a practical difficulty that could be identified as exceptional.

Variance Recommendations

Staff recommends approval of the Variance that would allow for the water containment portion of the swimming pool to be located 10 feet from the property lines.

Staff recommends **approval** of the variance for reasons as follows:

- The *Zoning Ordinance* permits swimming pools accessory to residential uses within the residential zones. Therefore, the placement of the swimming pool is consistent with the zone and the uses expected within the surrounding residential neighborhood.
- The proposed placement of the swimming pool is in a location that requires a variance of five feet and maximizes the distance from either side property line to mitigate any risk to neighboring properties. This property was developed before the City of Dover adopted the *Zoning Ordinance*. It has a total lot width of 35 feet; therefore, no other location on the lot could accommodate the required setback.
- The location of the swimming pool will not seriously affect neighboring properties and uses.
 - The swimming pool will be placed behind a solid (privacy) fence that is six feet in height.
- If the variance is not granted, the property owner would likely be unable to place a swimming pool on the lot, creating the potential for an exceptional practical difficulty.

Advisory Comments to the Applicant

- If granted, the variance becomes null and void if work has not commenced within one (1) year of the date the variance was granted. At present there is no provision for extension.
- If the variance is granted, a Building Permit is required prior to the commencement of the construction/installation of the swimming pool. All other code requirements for the placement of the swimming pool must be met.
- The Applicant should be aware that whenever the Board of Adjustment denies an application for a variance, such application for a variance, or an application on the same property, which is substantially similar, shall not be accepted for reconsideration by the Board of Adjustment sooner than one year from the date of denial (*Zoning Ordinance*, Article 9 §3.8).

GUIDE TO ATTACHMENTS

Exhibit	Description/Author	# Pages
A	BOA Application Form	1
B	Written Narrative	1
C	Applicant's Survey + Site Plan	1
D	Zoning Map – Base View	1
E	Zoning Map – Satellite View	1
F	Applicant Photos	6



City of Dover, DE
Department of Planning and Inspections
P.O. Box 475, Dover, Delaware 19903
(302) 736-7010 Fax: (302) 736-4217
www.cityofdoover.com

☒ Area Variance
☐ Use Variance
☐ Appeal
☐ Pre-App Date

Board of Adjustment Application

Application Information

Property Address: 506 Pear St Dover, DE 19904
Tax Parcel Number: _____
Owner Name: Kelsey Short
Property Zoning: _____
Variance (s) Requested: Install of pool 15'x48"

*Provide eight (8) copies of any survey, drawings, photos, site plan, etc. that may help support your application, and your response to the criteria. The criteria for a use variance and appeal are on the back of the form.

Area Variance

An area variance shall be evaluated on the following criteria: **Please state how your request meets each of these four (4) criteria.**

1. The nature of the zone in which the property lies; *What is the zoning of your property*
2. The character of the immediate vicinity and the contained uses therein; *What is your neighborhood like*
3. Whether, if the restriction upon the applicant's property were removed, such removal would seriously affect neighboring properties and uses; and
4. Whether, if the restriction is not removed, the restriction would create unnecessary hardship or exceptional practical difficulty for the owner in his efforts to make normal improvements in the character of that use of the property that is permitted uses under the provisions of the zoning ordinance.

Signature

I Kelsey Short do affirm that I am the property owner on which the variance is sought and that all the information provided in this application is accurate to the best of my knowledge and belief.

Kelsey Short Owner 6/10/25
Signature Title Date

25-70000003

1. The nature of the zone the property lies on is RG-1.
2. The character of the immediate vicinity contains two neighbors. I have a neighbor to the left of me that is divided by a vinyl privacy fence. I have a neighbor to the right of me that is also divided by a vinyl privacy fence. To the rear of my property is a City of Dover building that is separated by a patch of woods. The front of my property is the street that divides me from another row of homes. Both neighbors have been notified of my new vinyl fence install as well as intentions of a pool being placed that is gated.
3. If restriction on property was removed it would not affect neighboring properties. The pool I intend to get is the smallest one I could find to accommodate my family. It does not hold enough water to affect neighboring homes with vinyl fencing dividing our properties.



Bestway Steel Pro MAX 15' x 48" Round Metal Steel Frame Above Ground Outdoor Backyard Family Swimming Pool, POOL ONLY

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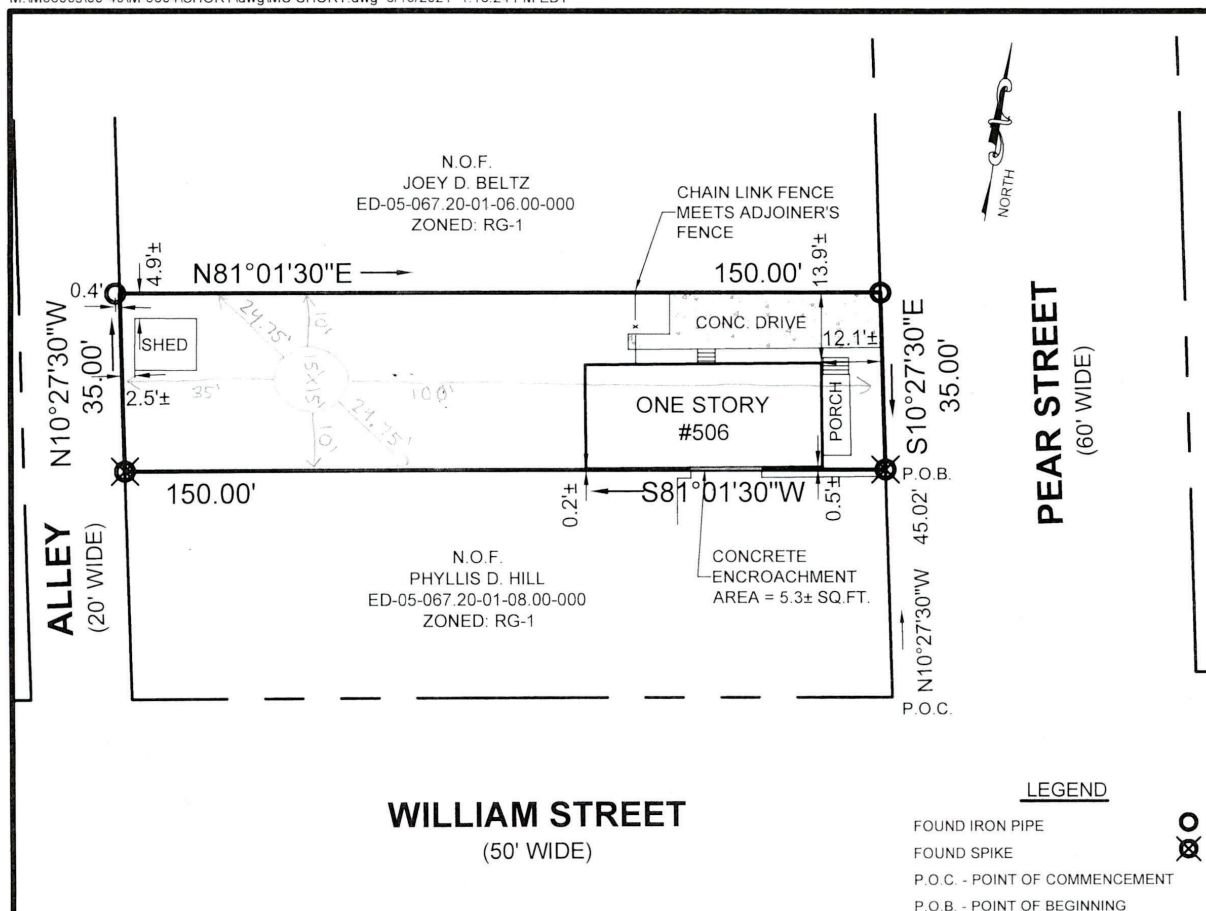
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4. If the restriction was not removed it would create an unnecessary hardship because a vinyl privacy fence was installed with intentions of a pool to be placed. I bought the property with the goal of eventually getting a pool and creating a backyard for the family. I was not aware that my property was not wide enough to accommodate a pool per City of Dover regulations. Pictures are provided of my yard to show intended pool placement and surrounding areas.



NOTES

1. TAX MAP PARCEL NO. ED-05-067.20-01-07.00-000
2. ZONING: RG-1 (FRONT YARD: 15'; SIDE YARD: 5'; REAR YARD: 30')
3. SELLER: HERVIE S. & PHYLLIS D. HILL (DEED REFERENCE G39-76)
4. LOT AREA = 5,250± SQ.FT. (0.1205± ACRES)
5. DATE OF FIELD SURVEY- 6/10/21
6. PROPERTY MAY BE SUBJECT TO RESTRICTIONS AND EASEMENTS DESCRIBED IN DEED RESTRICTIONS OR AS FOUND IN SUBSEQUENT TITLE SEARCH.
7. THIS PLAN SHALL NOT BE REPRODUCED, TRANSMITTED OR COPIED WITHOUT THE WRITTEN PERMISSION OF THE ENGINEER RESPONSIBLE FOR ITS CONTENTS.
8. BUILDING STRUCTURE LOCATING DIMENSIONS SHOWN ARE FOR THE PURPOSE OF CHECKING COMPLIANCE WITH ZONING & DEED RESTRICTIONS ONLY. NO LIABILITY WILL BE ACCEPTED IF THESE DISTANCES ARE USED FOR ANY OTHER PURPOSE.
9. HOUSE WAS BUILT CIRCA 1930 PRIOR TO THE ADOPTION OF CITY OF DOVER ZONING REGULATIONS, AND IS THEREFORE, LEGAL NON-CONFORMING BASED UPON THE GRANDFATHER CLAUSE. VERIFICATION SHOULD BE MADE WITH CITY OF DOVER ZONING OFFICE.
10. DECLARATION IS MADE TO ORIGINAL PURCHASER OF SURVEY. SURVEY IS NOT TRANSFERABLE TO ADDITIONAL INSTITUTIONS OR SUBSEQUENT OWNERS. SURVEY IS VALID ONLY IF PRINT HAS ORIGINAL SEAL AND SIGNATURE OF ENGINEER.
11. NO TITLE EXAMINATION FURNISHED TO OR PERFORMED BY THE PREPARERS HEREOF.

PARCEL SURVEY PLAN
OF
506 PEAR STREET
DOVER, DE
FOR
KELSEY SHORT

SITUATE IN: CITY OF DOVER, EAST DOVER HUNDRED, KENT COUNTY, STATE OF DELAWARE

CLASS 'B' SURVEY

I HEREBY DECLARE THAT THIS SURVEY PLAN ACCURATELY SHOWS THE BOUNDARY OF THIS PARCEL AS DETERMINED BY EVIDENCE FOUND IN THE FIELD AND WITH DEEDS OF RECORD, THAT IT ACCURATELY DEPICTS ALL IMPROVEMENTS AS LOCATED ON THE PREMISES DESCRIBED, AND THAT ALL IMPROVEMENTS ARE ENTIRELY LOCATED WITHIN LOT LINES, AND THAT THERE ARE NO ENCROACHMENTS UPON THE PREMISES DESCRIBED BY THE IMPROVEMENTS OF ANY ADJOINING PREMISES, UNLESS OTHERWISE SHOWN AND/OR CALLED OUT.

GREGORY R. SCOTT, P.E.

DATE

SCOTT ENGINEERING, INC. Consulting Engineers • Surveyors • Land Planners		
22 Old Rudnick Lane, Suite 2 Dover, DE 19901		
		302-736-3058
DRAWING NO.	M-5604	SCALE: 1"=30'
DRAWN BY.	S.E.I.	FLD. BK. NO. MS-68



Title:

Address:

Parcel ID:

Existing Zoning:

Owner:

Date:

Lands of Short at 506 Pear Street

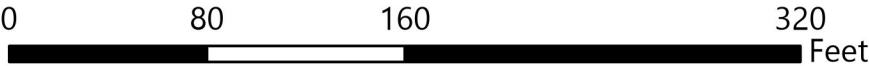
506 Pear Street

ED-05-067.20-01-07.00-000

RG-1

Kelsey Short

06/30/2025



Legend

Dover Parcels

Dover Boundary

Zoning

Subject Property



Title:

Address:

Parcel ID:

Existing Zoning:

Owner:

Date:

Lands of Short at 506 Pear Street

506 Pear Street

ED-05-067.20-01-07.00-000

RG-1

Kelsey Short

06/30/2025



Legend

Dover Parcels

Dover Boundary

Zoning

Subject Property

Exhibit F
Applicant Photos









