



CITY OF TONTITOWN PLANNING OFFICE

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Meeting: **February 24, 2026**
Project: **958 Budrio Ave**
Setback Request
Planner: Brad Spurlock

AGENDA ITEM **PH1, BOZA1** VARIANCE REQUEST

958 Budrio Ave
Parcel #: 830-39924-000

SUMMARY: The applicant is requesting a variance on setback requirements located at 958 Budrio Ave on approximately .25 acres more or less.

CURRENT ZONING: R-3, (Single-Family Residential)

PROPOSED USE: R-3, (Single-Family Residential)

CITY WARD: 2 – Alderperson Larry Ardemagni and Daniel Montez

INFRASTRUCTURE SERVICE AREAS (not a guarantee of service availability):

Water: Tontitown Water

Sewer: Tontitown Sewer

Electric: Ozarks Electric

Cable: Cox Communications

Phone: AT&T

Natural Gas: Black Hills Energy

School District: Springdale

PROJECT SYNOPSIS:

The owner of the property, Karen Jo Keller, is requesting a setback variance from the standard setback requirements in the R-3 zoning district for the city's zoning ordinance to construct a pool. The required rear setback is 25' and the applicant is requesting a setback to 12' to construct the concrete deck and 10' setback for the base of the pool.

153.262 POWERS AND DUTIES

The Board of Zoning Adjustment shall have all the powers and duties prescribed by law and by these regulations, which are more particularly described as follows:

(B) To authorize upon appeal, in specific cases, such variance from the terms of this zoning chapter will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of these regulations would result in unnecessary hardship that would deprive the owner of any reasonable use of the land or building involved. A variance from the terms of these zoning regulations, shall not be granted by the Board of Zoning Adjustment unless and until:

(1) The applicant demonstrates that special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures or buildings in the same district; that literal interpretation of the provisions of these regulations would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of these regulations; that special conditions and circumstances do not result from the actions of the applicant; and that granting the variance requested will not confer on the applicant any special privilege that is denied by the zoning regulations to other lands, structures, or buildings in the same district.

STAFF ANALYSIS: The applicant has demonstrated that the property is subject to unique constraints of the corner lot located at Budrio Ave and have seen lower elevation spots in the yard.

Because strict adherence to the standard setback would either force a smaller pool or create inefficient use, the variance request addresses a genuine hardship rather than a mere preference.

(2) No nonconforming use of neighboring lands, structures, or buildings in the same district, and no permitted or nonconforming use of lands, structures, or buildings in other districts shall be considered grounds for the issuance of a variance.

STAFF ANALYSIS: The intent of the zoning ordinance is to promote orderly development, adequate open space, and protection of property values and adjacent uses. The proposed swimming pool, although encroaching into the setback, will still provide adequate open space, will be well buffered from adjacent properties, and will include landscaping/screening as required. The site will meet other dimensional standards and will not pose negative impacts on light, air, circulation, utilities or safety. Therefore, the request is in harmony with the broader objectives of the ordinance.

(3) The Board of Zoning Adjustment shall further make a finding that the reasons set forth in the application justify the granting of the variance, and that the variance is the minimum variance that will make possible the reasonable use of land, building, or structure.

STAFF ANALYSIS: The variance the staff has reviewed has determined the setback required is a minor variance. No other structures shall be permitted with the setback variance allowed for the pool and should not be constructed in the 10' utility easement. If the pool is ever destroyed or removed, all future structures must adhere to the setbacks. As the recreational use of a pool is minor, staff does not feel the impact will be any more significant than that of non-permanent recreational items that could exist today.

(4) The Board of Zoning Adjustment shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of these zoning regulations and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

STAFF ANALYSIS: The swimming pool is located to the near side so that impacts on adjacent residential uses are minimized. The proposed building use (swimming pool) is less intensive than many commercial uses, thus the encroachment is not expected to be detrimental to surrounding homes. The variance will not adversely affect the character of the neighborhood.

(5) In granting any variance, the Board of Zoning Adjustment may prescribe appropriate conditions and safeguards that it deems necessary or desirable. Violations of such conditions and

safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of these regulations.

STAFF ANALYSIS: The granting of this variance will be upheld by the Building Inspection to ensure the building is not constructed closer to the property line than approved in the variance.

(6) Under no circumstances shall the Board of Zoning Adjustment grant a variance to allow a use not permissible under the terms of these zoning regulations in the district involved, or any use expressly, or by implication, prohibited by the terms of these regulations in said district.

STAFF ANALYSIS: Per the Code 153.140, accessory buildings/uses are permitted in all residential zones. The accessory building/use will conform to the location, size and height requirements set forth in Code 153.141.

Streets:

This property is located on Budrio Ave in South Pointe S/D Ph 4&5.

NEIGHBOR COMMENTS: All neighboring properties within 200 feet of the property boundary were notified by certified mail of this project.

STAFF FINDINGS: *Per City Code 153.262, "a literal enforcement of the provisions of the regulations do result in unnecessary hardship that would deprive the owner of any reasonable use of the land or building involved." Due to the existing site conditions that are peculiar to the site that include site topography, existing utility and residence location, mature trees and lot size, only one location on the project site can accommodate the desired accessory building/use. Granting this variance would not afford the landowner a special privilege. Granting this variance will not be injurious to neighboring properties.*

STAFF RECOMMENDATIONS:

Based on the foregoing analysis, Planning Staff recommends **approval** of the variance request to encroach into the required side setback for the construction of the pool in the R-3 zoning district, subject to the following conditions:

- The building shall be located no closer than 5' into the setback area as requested.
- All other applicable zoning and building permit requirements shall be met
- The variance approval shall apply only to the swimming pool as shown on the approved plan; any changes in size, use or location that increase the encroachment will require a new variance.

Figure 1: Vicinity Map



Figure 2: Current Zoning Map



Figure 3: Setback requirements

	R-3
Category Names	Single Family Residential – 9,600 square foot minimum
Density	3 units/acre
Minimum Lot Size	9600 sf
Setbacks for 1- and 2-story structures	
Front Setback	30'
Side Setback	7'
Street side setback	25'
Rear setback	25'