



Board of Adjustment and Appeals - Regular Session

1.

Meeting Date: 08/01/2013

Subject: Street Side Yard Setback Variance, Daniel Flaherty, 11749 Bittersweet Street, 09-31-24-43-0080, Case 13-07V

From: Cheryl Bennett, Housing and Zoning Coordinator

INTRODUCTION

The petitioner requests approval of a 13-foot side yard setback variance from City Code Section 12-510 (1) to locate a 16-foot by 28-foot above-ground pool seven feet from the street side yard lot line along 118th Avenue NW. This will place the wall of the pool seven feet from the property line where a 20-foot setback is required.

Applicable Regulations: 12-510(1)

Findings Required: 11-1304.9(2)

Public Hearing

Decision by Board of Adjustment and Appeals

Appeal available to the Coon Rapids City Council

DISCUSSION

The property is located in the Thompson Heights 5th Addition, platted in 1960. It is a corner lot measuring 90 feet in width along the front property line on Bittersweet Street, 116.63 feet in depth along the street side yard on 118th Avenue NW, 94.02 feet across the rear property line and 128.86 feet in depth along the southerly interior side yard. The lot does not meet current development standards for a corner lot (90-foot width and 135-foot depth required), however, it complies with City Code requirements that permit the lot to be used for conforming uses and structures. According to dimensions provided by the petitioner, the house and garage appear to comply with current setback requirements, however, no survey has been provided that would verify this.

The lot is improved with a single family house of approximately 1,520 square feet fronting on Bittersweet Street and a detached garage of 672 square feet accessible from a driveway off 118th Avenue NW. An attached garage located in the front of the house has been converted to living space; the driveway to this former garage space remains. The original building was constructed at or near the minimum setbacks along Bittersweet Street (front) and the southerly, interior side property line. A deck measuring 10 feet by 20 feet deck is located along the rear wall of the garage; it extends to and is connected with the house. The deck overlooks a rear yard area of approximately 32 feet by 46 feet. There is also a shed measuring 8 feet by 12 feet located in the southeast corner of the rear yard. An existing fence encloses the side and rear yards. All fences enclosing swimming pools must meet the non-climbing type barrier and gate requirements of City Code.

The petitioner proposes to locate the pool in the street side yard adjacent to the northerly side of the house. The side yard ranges in depth from 27.5 feet to 30 feet. The boulevard adjacent to the side yard is approximately 14.5 feet deep. The pool is rectangular with rounded corners and measures 16 feet by 28 feet. It is capable being recessed in the ground to accommodate the slope of a yard and can include a deep end that will hold a water depth of up to seven feet. The proposed location places the pool seven feet from the side wall of the house and seven feet from the

street side property line. A setback of twenty feet from the property line is required.

Setbacks for pools are established by City Code Section 12-510, which reads, in part:

12-510 Location. No portion of a pool, pool deck, or pool appurtenance shall be located in front of the building line. In addition, the following setbacks shall apply:

- (1) Water Line:
 - Interior side or rear property line 10 feet
 - Street side or rear property line 20 feet

Additional setback requirements apply to mechanical equipment, pool decks and other appurtenances but no variances are being sought for these features. If the variance is approved, the decks, equipment and other items associated with the operation of the pool will need to comply with the appropriate setbacks.

CONSIDERATIONS

In evaluating variance requests, findings should be adopted. A 2011 state law allows that variances may be granted when the petitioner establishes that there are “practical difficulties” in complying with the City’s regulations. By statute, “practical difficulties” means that the property owner proposes to use the property in a reasonable manner not permitted by an official control, that the plight of the landowner is due to circumstances unique to the property not created by the land owner and that the variance, if granted, will not alter the essential character of the locality. These findings are incorporated into the City Code and are included in findings 3 – 6 below. Two additional findings of City Code (1 and 2 below) are also a stipulation of statute.

The granting of a variance from the setback regulations of City Code requires the following findings must be made:

1. The variance is in harmony with the general purposes and intent of the ordinance from which the variance is requested.

The City of Coon Rapids adopts land development regulations generally to promote the public health, safety and general welfare of its residents, visitors and the traveling public. The City Code establishes a minimum setback of 20 feet for the water line of a pool from a street side property line; its purpose, in part, is to provide a safe and uniform separation between this recreational use and the uses on the public right-of-way. The setback required for this improvement is the same setback required of other permanent improvements – for both principal and accessory uses in this district – from the street side property line, including houses, porches, decks, gazebos, garages, and sheds. The proposed setback of seven feet does not meet the general purposes and intent of the ordinance.

2. The variance is consistent with the Comprehensive Plan.

The Comprehensive Plan provides for complete and balanced residential neighborhoods that include a variety of housing resources, and includes goals and policies for maintaining the existing housing stock.

The applicant must demonstrate there are practical difficulties in complying with the ordinance from which the variance is sought. Practical difficulties include, but are not limited to, inadequate access to direct sunlight for solar energy systems. Economic considerations alone do not constitute practical difficulties. In determining this standard, all the following must be met:

3. Unless the variance is granted, the property cannot be used in a reasonable manner. If a property can be used reasonably without the granting of a variance, it can be used in a reasonable manner.

The property is zoned Low-Density Residential-2 and the foremost use of properties located in this district is a detached single-family house, together with its accessory uses. The existing use and the physical development of this property meet or exceed the minimum development standards of this zoning district. The proposed pool can

be sited in the rear yard of this property without need of a variance.

4. The variance requested must be the minimum to make reasonable use of the property.

There are other options for providing a pool on the property. As noted above, the proposed pool can be located in the rear yard meeting code requirements, including setbacks. It may or may not require removal of a tree or trees in this location. The pool could be placed closer to the wall of the house, or a smaller pool could be installed.

5. The plight of the applicant or landowner is due to circumstances unique to the property not created by the applicant or landowner.

There are no obvious circumstances unique to this property.

6. The variance, if granted, will not alter the essential character of the locality.

A screening fence currently exists that encloses the street side and rear yards of the property. The pool structure itself will not likely be visible to general public. A pool on residential property is not an anomaly.

The petitioner's narrative explaining how the criteria for granting a variance are met with this request. It is attached.

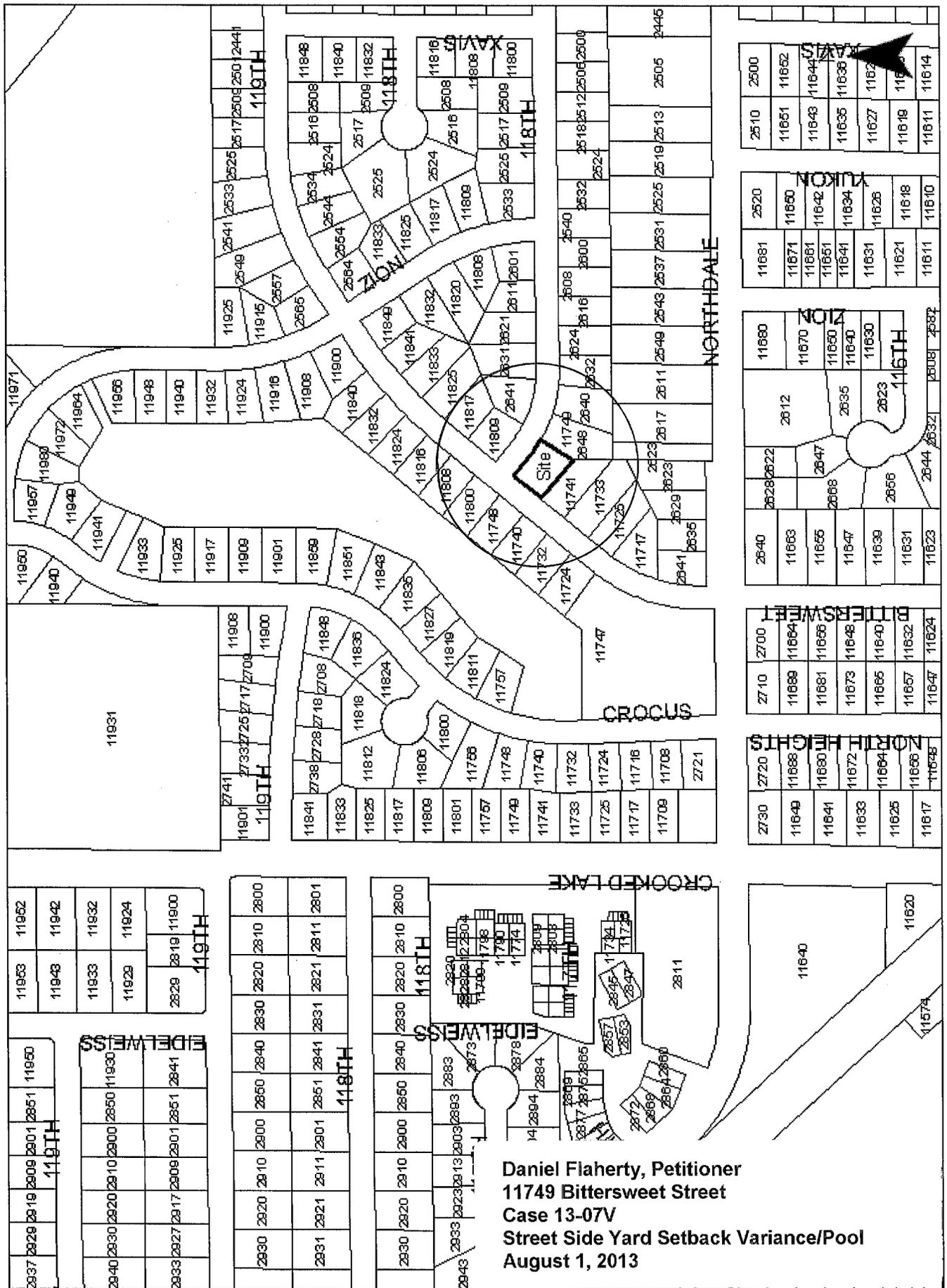
RECOMMENDATION

In Case 13-07V, staff recommends denial of a 13-foot street side yard setback variance from City Code Section 12-501(1) to locate a swimming pool seven feet from the street side property line based on the request failing to meet the findings required of City Code Section 11-304.9(2).

Attachments

Attachments

Location Map



Daniel Flaherty, Petitioner
11749 Bittersweet Street
Case 13-07V
Street Side Yard Setback Variance/Pool
August 1, 2013



13-07V 11749 Bittersweet St

Daniel Flaherty, Petitioner



Aerial Photo: Flown Spring 2011



Prepared by Anoka
County GIS Department
This is a compilation of records as they appear in the Anoka County Offices affecting the area shown. This drawing is to be used only for reference purposes and the County is not responsible for any inaccuracies herein contained.

VARIANCE NARRATIVE

1. The hardship that exists based on the circumstances unique to the subject property.

The hardship, obviously, is that my family and I cannot utilize our yard for a swimming pool, because we have an unusual corner lot. We are not seeking a variance that is inconsistent with the general standards of lot use in Coon Rapids. Many properties have pools. Our corner lot has a front yard and two other, smaller yards, one directly in back and one on the back side.

Because we have these smaller yards, and not a large back yard, the circumstances of our property are somewhat unique. The denial of the variance would deprive us of the ability to use our "backyards" for typical recreational purposes.

2. The request allows the minimal improvement that would make possible the reasonable use of the property.

The variance would allow us to install and enjoy our pool without strict adherence to set-back rules. Nothing more is requested. This is an above ground pool that will be recessed in the ground to follow the slope of the yard.

3. The request would not be detrimental to the neighborhood or the public welfare.

We have a five foot high fence surrounding the pool yard. The pool cannot be seen from the street. No utility issues would be created by allowing a set-back as is proposed. Our immediate neighbors have given their consent. The installation of a pool is not detrimental to the public welfare in any way. The edge of the pool would still be over twenty (20) feet from the curb. The proposed set-back will not result in a pool that is unsightly, unusual or problematic in any way.

4. This variance would not create a special privilege not common to other property in the same zoning district.

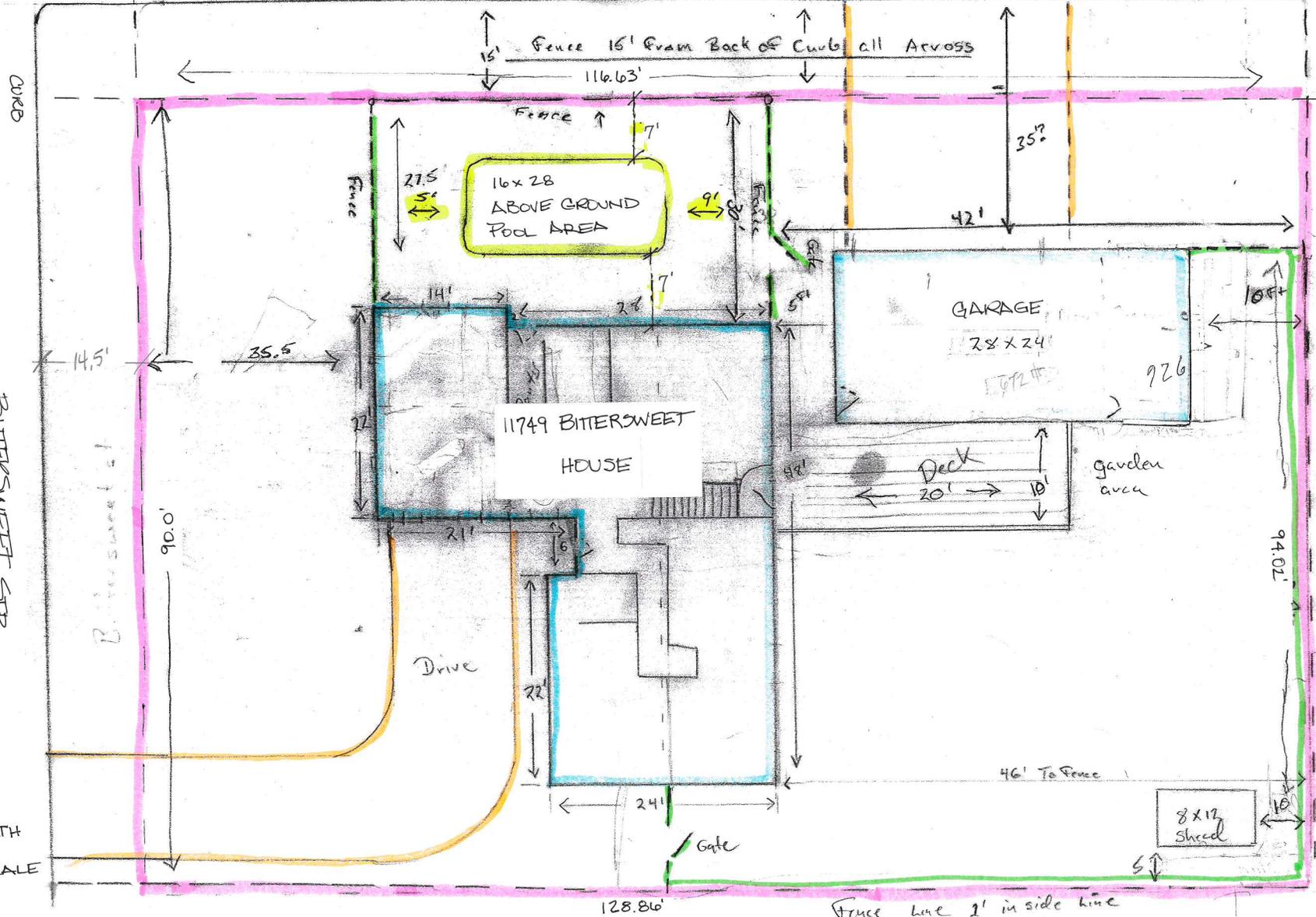
This variance is sought so we can install and enjoy a swimming pool. That is not a special privilege; it is a privilege common to most properties and their owners. We merely want the ability to do what others routinely do, and without any detrimental effect to the neighborhood or the provision of utilities.

Daniel Flaherty, Petitioner
11749 Bittersweet Street
Case 13-07V,
Street Side Yard Setback Variance/Pool
Petitioner's Narrative
August 1, 2013

Pool POOL
 Property P/LINE
 Fence FENCE
 Bld. BUILDING
 Drive DRIVE WAY

118th AVENUE NW

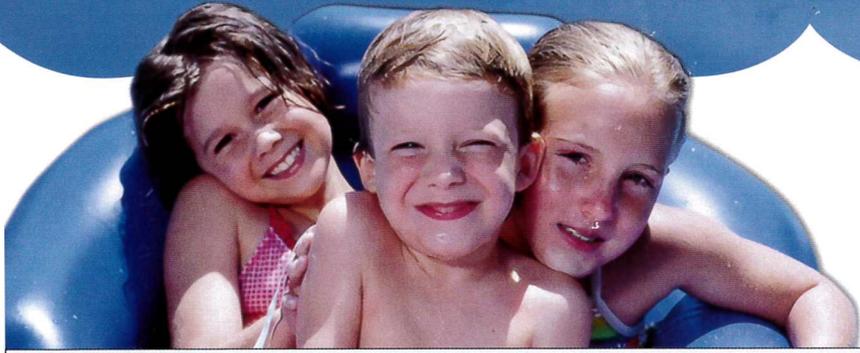
CURB



BITTERSWEET STR.

NORTH
 NOT TO SCALE

Daniel Flaherty, Petitioner
 11749 Bittersweet Street
 Case 13-07V
 Street Side Yard Setback Variance/Pool
 August 1, 2013



"the original portable pool"
doughboy[®]

The Silver Lake Pool

A beautifully designed marble pool wall with a sturdy steel frame that is built to last.

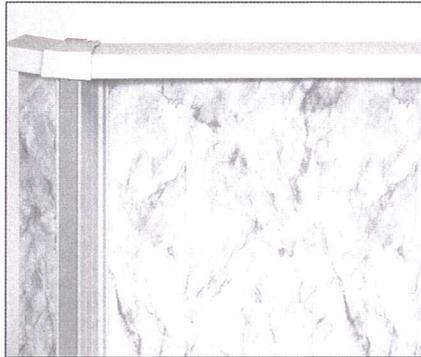
used x \$1,000⁰⁰



The Silver Lake Pool

Rugged and Beautiful

- **Strong Steel Frame.**
Flare 6" steel top rails and 6" steel vertical supports create a pool that is strong and built to last.
- **Stylish Two-toned Vertical Supports.**
The two-toned silver 6" columns are a beautiful accent to the Silver Lake wall.
- **Durable and Strong.**
Doughboy uses more top rails and vertical legs to create a more stable pool.
- **35 Year Warranty or longer on All Components.**



Pool Frames

No one else comes close. Doughboy pool frames are designed to last. Our frame steel leads the industry in terms of protective layers, coatings and treatments to provide unmatched protection against corrosion and abrasion.

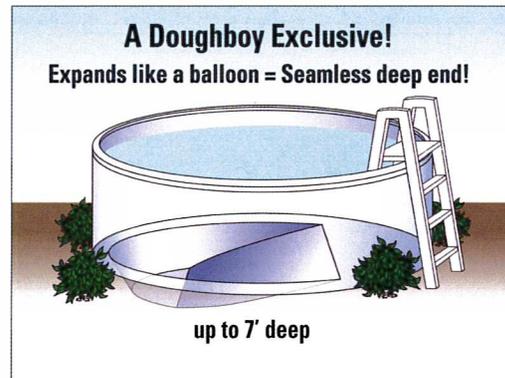


- **Com-Pac™ II Oval Support System.**
Superior engineering to maximize your pool. No other manufacturer can provide you with the space-saving features of the Com-Pac™ II.
- **Zinc Clad™ 11000.**
Hot-dipped galvanizing and numerous protective coatings for protection and corrosion resistance.

Liner Exclusives

The only above-ground pool manufacturer that produces virgin-vinyl liner material made to original Doughboy specifications. Liners are available in a variety of decorative patterns.

- **Exclusive "True" Expandable Liners** increase pool depth up to 7 feet with an optional Special-Purpose Deep Swimming Area for underwater swimming only.
- **Exclusive Therma-Seal™ Technology.**
This proprietary fusion method provides superior sealing for maximum durability and quality. Unmatched in the industry. We are so confident with this process that we cover the seams of our liners 100% for a lifetime.



A Size For Any Backyard

An excellent assortment of pool sizes to perfectly match your backyard.

Round

12' • 16'
18' • 21'
24' • 28'

Oval

20' x 12' • 24' x 12'
24' x 16' • 28' x 16'
32' x 16' • 34' x 18'
38' x 18' • 41' x 21'

Important: Misuse of your pool may result in crippling injury and/or other dangers to life and health. Do not dive or jump. Do not use slides, diving boards, or any other platform or object which can be used for improper pool entry. Use only an above-ground swimming pool ladder to enter or exit your pool. It is your responsibility to secure your pool against unauthorized, unsupervised or unintentional entry.

Change of Design: Doughboy Recreational expressly reserves the right to change or modify the design and construction of any product in due course of our manufacturing without incurring any obligation or liability to furnish or install such changes or modifications on products previously or subsequently sold.

Doughboy Recreational is in no way affiliated with any professional pool installer. If you have the pool installed by others, please supervise to be sure they comply with proper installation techniques as shown.



Visit our website at www.doughboy-pools.com

Doughboy Recreational • 315 N Sebastian • West Helena, AR 72390 • 866-DOUGHBOY