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A swirling pool of controversy

A couple's attempts to build a pool in their back yard has turned into what their lawyer calls "the ultimate absurdity."

By SUSAN THURSTON, Times Staff Writer
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SUNSET PARK -- It all began as a routine request to build a swimming pool.

Peter and Michelle Alonso wanted a safe place for two sons to swim. If all went as planned, the kids would be doing laps by summer.

A year later, there's no pool. The Alonsos have spent bundles on attorneys and amassed a mountain of paperwork. They no longer speak to neighbor Steve Yerrid, a lawyer who earned millions in a tobacco lawsuit.

The first public debate was set for Sept. 11.

In retrospect, that may have been an omen.

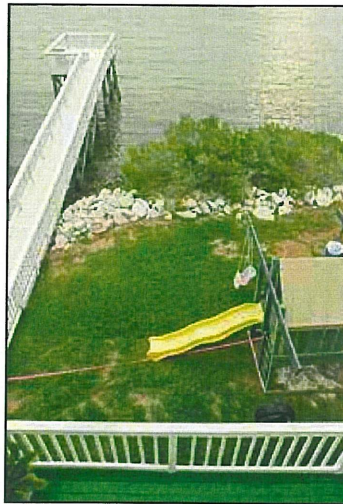
The pool, for now, is sunk. But the region's top land-use attorneys are standing by, along with all aspiring Court TV writers, because if anything, the saga of the Sunset Park swimming pool is just that -- a saga.

"It's the ultimate absurdity over a simple exercise," said Joel Tew, an attorney for the Alonsos who typically represents big developers.

The Alonsos applied for a variance to build the pool in June 2001. They needed the city's permission to install it next to a nature preserve behind their house at 5007 W San Gable Court.

Five months later, Nov. 13, the request nearly got a hearing. Likewise for Dec. 11, Jan. 8 and Feb. 12. Each time, something came up. Scheduling conflicts. Technicalities.

The Variance Review Board finally listened on March 12, despite Yerrid's request for a delay.



[Times photos: Stefanie Boyar]

Peter and Michelle Alonso have fought for a year to get permission to build a pool in their yard. Last week the City Council overturned a decision by the variance board to allow the pool.

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Even the discussion to move forward took 35 minutes.

"That was exhausting," said board member John Dingfelder, after the 35 minutes.

"Can we take a break?"

The board debated the zoning request for three hours. The meeting ended at 1:20 a.m. the next day, with a 4-2 vote in support of the Alonsos.



"It's 10 after 1," said member Ana Wallrapp, begging the board to make a decision. "We could sit here and debate it all night."

The Alonsos live next door to lawyer Steve Yerrid, who is fighting their attempts to build a pool. He has a pool in his yard similar to what the Alonsos hope to build.

The Alonsos wanted a city variance to reduce a wetlands buffer zone from 30 feet to 10 feet to allow for the pool. Their back yard abuts the Audubon Sanctuary, a small nature preserve on the edge of Tampa Bay.

During the variance board hearing, the Alonsos' attorney, Tew, said the pool would not hurt the sanctuary. He brought in consultants to verify the buffer line and got the okay from the Environmental Protection Commission for a 10-foot setback.

Michelle Alonso, 40, testified that she wanted the pool so that her boys, ages 2 and 7, wouldn't have to swim in the bay, with its sharp oyster beds and storm run-off pollution. She never imagined it would take this long.

"We thought, perhaps naively, that this would be just a routine request," she said. "After all, pools are prevalent within our neighborhood."

Tew said denying the variance would be unfair and discriminatory. Yerrid, who lives at 5005 W San Gable Court, received a similar variance for a pool more than 10 years ago.

Back then, neighbors spoke on his behalf.

Which neighbors? The Alonsos.

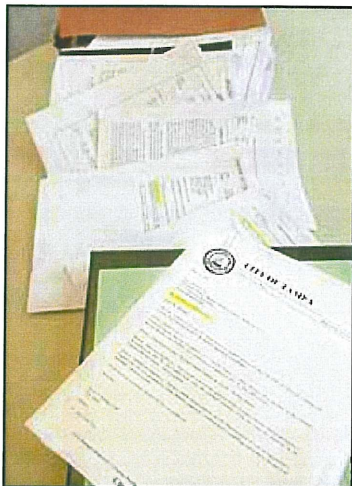
Mark Bentley, attorney for Yerrid, argued that the Alonsos did not meet the city criteria for a variance. Denying it would not stop them from using their property. It also would not pose a hardship, he argued.

Besides, the couple already had a variance, he said. In 1990, the city gave the Alonsos permission to reduce the front yard setback from 25 to 21 feet to accommodate a bigger house. Had they wanted a pool, too, they could have built a smaller house.

Yerrid, whose lot is twice the size, said the Alonsos' pool would overdevelop the area and hurt the environment. The 50-acre sanctuary serves as the last piece of nature in an area otherwise surrounded by seawalls and waterfront mansions.

"I think you should be able to build a pool 99.9 percent of the time," he said. "This is one-tenth of 1 percent where you shouldn't."

Throughout the hearing, lawyers duked it out like litigators on LA Law. They quibbled over minutes allowed to speakers and rebutted evidence and testimony. At times, chairman Jeff Conner mediated the meeting like a judge.



The Alonso pool case is contained in an 8-inch thick file.

"I'm going to object. This is totally irrelevant," barked Bentley after comments made by Tew.

"It's not your turn," Tew retorted.

"I just had to get that on the record," Bentley added.

"You have a three-minute rebuttal," Conner said.

Thomas Ries, conservation chair for the Audubon Society, spoke at the meeting against the variance.

Later, he said he unknowingly got caught in the middle of a nasty neighbor dispute.

the environment.

In his view, neither party really cares about

"I'm not for one side or another. It's mostly a battle between one neighbor against another, and they both have unlimited money," he said. "Who loses out? The sanctuary."

Board member Rebecca Smith said the Alonsos chose to put a house where the pool could have gone. She sought to nix the variance request, but her motion failed.

Smith spoke at length about the lack of hardship and how the pool would hurt the shoreline. At one point, Wallrapp asked her if she was going to keep talking unless someone interrupted her.

The debate closed with a motion by Dingfelder to grant the request. He said the Alonsos showed a hardship and a pool was a reasonable use of their property. Smith and John Weiss voted against it.

The Alonsos had won.

But it wasn't yet safe to buy sunscreen.

Less than two weeks later, Yerrid, who developed the four-lot subdivision called Waterford on the Bay, offered the Alonsos \$1-million for their house.

The Alonsos declined. Not surprisingly, Yerrid appealed the variance board's decision to the City Council. Based on the evidence presented to the variance board, the council can uphold board rulings or reverse them. Only a few are appealed every year, city planners said. Most are upheld.

The council took up the matter last week. Chairman Charlie Miranda prefaced by saying that the courts are more adept at handling such issues.

The 8-inch thick file told it all.

"I will reserve one hour for this," Miranda said. "I heard this thing can get really lengthy."

Bentley said the Alonsos never made a legal case for their variance. They can use their property without one and they don't have a hardship. If their kids want to swim, they can go to the YMCA or to a friend's house, he said.

"The board was totally confused," Bentley said.

Tew countered that the board clearly understood the issue and asked questions ad nauseam.

"They didn't just willy-nilly say these people should have a pool," Tew said.

The council boiled down the issue to hardship and use of property, the meat-and-potatoes issues of variance requests.

Council member Rose Ferlita said the hardship seemed self-imposed.

"If every person wants a pool, then it has to be part of the master plan," she said. "A choice was made."

Council member Shawn Harrison, a lawyer, said not having the pool clearly does not prohibit the Alonsos from using their property. They live there, after all.

After a short discussion, the council unanimously overturned the decision, shocking the Alonsos and their attorney.

Tew tried to get in a few last words, but Miranda quickly caught him off.

"I'm just trying to save you a trip to court. The ruling means no other lots with structures can have a variance," Tew said as the council broke for recess.

Tew said afterward that the council acted hastily. He felt so terrible for the family that he took them off the clock. He wouldn't say how much the Alonsos have paid in legal fees, but said it was in the tens of thousands of dollars -- enough to build at least two pools with Jacuzzis.

And it's not over.

"Somebody needs to do something," Tew said. "Why do you have a Variance Review Board when you are going to second-guess them, particularly when the second-guessing violates the law. It smells terrible.

Tew has maintained all along that the setback requirement should not apply

because rocks along the edge of the property act as a man-made seawall, not a simulated natural shoreline. City planners have disagreed.

Yerrid said he feels no animosity toward the Alonsos and wishes the dispute had never arisen. If they decide to sue, however, he'll respond.

"To me, it's not about World War III," he said. "It's not that I don't want them to have a pool, but I think you have to meet the criteria."

Peter Alonso, 41, said he and his wife haven't decided how to proceed.

"Hopefully, the dust will settle and the facts will come to the surface," he said. "Our prayers will be answered and we'll have a pool."

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