Chair Townsend called the meeting to order at 7:00 p.m. Those members attending included John, Townsend, Clithero, Campbell and Hazelrigg. Also attending were the City Clerk, Sheela Amin, Building Regulations Supervisor, Phil Teeple, and Assistant City Counselor, Susan Crigler.

The minutes from the regular meeting of January 10, 2012 were approved as submitted on a motion by Mr. Campbell and a second by Mr. Clithero.

The following case, properly advertised, was considered. All persons testifying were duly sworn by the City Clerk.

**Case Number 1834 was a request by Thomas M. Schneider, attorney for Glenda Parker Hammond Trust, for variances to the front yard setback requirement and the minimum setback requirement for an accessory structure from the front lot line by allowing the private swimming pool to encroach into the required front yard and the required minimum setback for an accessory structure on property located at 1101 Merrill Court.**

Chair Townsend opened the public hearing.

Ms. Amin explained the residents of 1105 Merrill Court had, by letter, expressed concern with regard to the granting of the variances due to the potential impact on the aesthetic appearance of the stated property and the adjoining properties fronting Forum Boulevard.

Mr. Campbell understood the notice was erroneous and asked for clarification. Mr. John agreed it appeared to be a back yard. Mr. Teeple explained the definition of a front lot line is the boundary between a lot and the street on which it fronted. This property fronted both Merrill Court and Forum Boulevard as there were building lines on both streets when it was platted.

Tom Schneider, an attorney with offices at 11 N. Seventh Street, stated he was representing Glenda Hammond, the Trustee of the Trust that owned 1101 Merrill Court, and explained she wanted to install a pool between the home and Forum Boulevard. It would be a 20 foot by 40 foot pool and would be enclosed by a six foot wooden privacy fence on three sides. The builder of this house and a neighboring house had decided to face the house on a cul-de-sac on the west instead of Forum Boulevard. The result of this configuration was that the house had two front yards instead of a normal back yard, but the area in question functioned as a back yard and backed up to Forum. He pointed out this was one of the few lots in Columbia that had two front yards and in order to install the pool, variances were necessary. He noted it would be a steel sided, typical swimming pool. He stated he had sent letters to those within 185 feet of the property and had not been contacted, but understood a letter had been received by the Board on Friday, which primarily focused on some maintenance issues unrelated to the pool itself.

Ms. John asked why the pool was being placed east of the home instead of on the north side of the home as that area appeared to be wide enough to accommodate it. Mr. Schneider replied he believed it would be odd to have a pool in the side yard. He believed it the preference would be for it to be in the back yard as that was normal placement. He pointed out it would not be visible
from the neighboring properties since a six foot privacy fence would be installed.

Mr. Campbell asked for the distance of the pool from the road and the house.

Keith Martin of Vaughan Pools, 3930 S. Providence, explained the distance from the property line to the back of the house was about 40 feet. Mr. Clithero pointed out there would be a 10 foot easement within the property line on the Forum side as well. Mr. Martin commented that there was still 30 feet from the easement to the back of the house, so there was ample room. Mr. Campbell asked if the size of the pool itself was 20 feet by 40 feet or if that measurement included the surrounding area and deck. Mr. Martin replied it was the size of the pool. Mr. Campbell asked for the size of the deck. Mr. Martin replied the pool did not have to have a deck. Mr. Campbell asked if this pool would have a deck. Mr. Martin replied it was the option of the pool owner.

Mr. Schneider stated he thought the decking shown in the packet was something that could be in an easement since it was not a structure. He also explained the pool would be 10 feet from the house and 20 feet wide, and there would be a 10 foot easement. He noted the house was 40 feet from the lot line.

Mr. Campbell asked if the fence would be built on the lot line. Mr. Schneider replied he would expect it to be on the lot line.

Monica Widhalm, 4802 Forum Boulevard, explained her front yard faced this property and the two properties on either side of the subject property were built on a hill causing their decks to look into the pool area regardless of the fence. She noted the sidewalk along Forum was well used and stated she was concerned about how far the fence would be from the sidewalk. She did not believe a variance should be granted due to the number of feet the pool encroached into the front yard and the precedent it would set. In addition, she thought it was aesthetically nice that there were no six foot fences along that portion of Forum. She noted she was also concerned with potential maintenance of the pool and property.

Mr. Clithero explained a privacy fence could be installed even if a pool was not constructed. He noted if the area had been platted three years later, this area would be the rear yard instead of the front yard because access off of Forum was limited after 1996. Ms. Widhalm understood the fence would be allowed, but pointed out the pool was not allowed without a variance.

Susan Clark, 302 Campus View Drive, stated she was the agent and manager of the Highlands Homes Association and explained the Association had restrictive covenants tied to ownership of the land and those covenants were sometimes more restrictive than City ordinance and State law. Architectural review was required in order to install a pool, fence, home addition, etc. The Association approved the pool proposal contingent upon compliance with City building codes, setback easements, utilities easements and proper maintenance. The Association asked that any variance given preserve the 10 foot utility easement and require appropriate pool maintenance. The Association denied the request for fence installation due to other unresolved architectural review issues. She noted Christopher and Kelly Pascucci of 1107 Merrill Court had asked her to voice their opposition to variances for the pool due to lack of maintenance. Five other homeowners on Merrill Court had also filed opposition to the proposed variances and had asked her to speak in opposition to the variance requests. The owners were also concerned about maintenance and the pool posing a health hazard.
Mr. Campbell asked if all of the people on the cul-de-sac had signed a petition in opposition of the pool. Ms. Clark replied they had not signed a petition. They had only contacted her office to voice their opposition. Mr. Campbell asked if all of the people within the neighborhood had voiced opposition to it. Ms. Clark replied not all of the neighbors had.

Ms. Clark commented that this would be a vinyl lined pool located close to a busy street and sidewalk. They were easily damaged and could sustain thousands of dollars of damage by a hole caused by a rock or brick if not maintained quickly. She provided the Board a handout with a summary of her comments.

Todd Norton, 1100 Merrill Court, stated he was the next door neighbor to the subject property and was opposed to granting these variances based on aesthetics and the potential impact to property values. He explained his yard was on a hill and he could look down into the pool. The six foot fence would not block his view to the pool. He noted he was also concerned about maintenance due to past maintenance history on the property.

Blair Musbach, 1103 Merrill Court, commented that his property was also a neighboring property and his biggest concern was maintenance. There had been several complaints registered with the homeowner association regarding past maintenance, and some had been registered as recent as a few months ago. He explained he was not opposed to anyone pursing his or her happiness, but felt there were limitations in terms of properly maintaining the pool.

J.C. Headley, 5009 Cullen Court, stated he was speaking in opposition because had had concerns for the care of the facility and found it difficult to understand how the owner could take care of a pool when there were problems with just mowing the grass. He understood the family wanted a pool and noted there was a swim club nearby.

Ms. Widhalm commented that the family of the subject property had placed a hot tub in the back yard, next to the deck, and the lid to that hot tub was open for about a week. She was not sure if that was intentional or not, but believed there was a safety issue for the people in the neighborhood even in that situation.

Mr. Schneider asked if a pool could be place in the north side yard. Mr. Teeple replied a 60 foot setback was required from the front lot line and a three foot side yard setback would be required. Mr. Schneider understood a pool could be placed in the side yard without any difficulties in terms of City Codes. Mr. Clithero thought a variance for the 60 foot setback from the front lot line might still be needed.

Glenda Hammond, 1101 Merrill Court, stated she was the property owner and commented that she was not sure what her hot tub had to do with this variance request. In addition, she had never seen her neighbors on their decks and did not think the view of the pool would be an issue.

Mr. Musbach commented that there was an elevation issue with the north and south sides of the lot as there was a 10-15 foot drop from the front yard to the rear of the home, so there would be excavation issues if a pool was placed in the side yard.

There being no further comment, Chair Townsend closed the public hearing.

Mr. Campbell asked for the height requirement of any fence enclosure. Mr. Teeple replied a six
foot fence was required, but it was not a screening requirement. It was for public safety purposes and preventing access to the pool.

Mr. Campbell understood the only issue the Board could address was whether to grant a variance with regard to the possible location of the pool. Ms. Crigler stated that was correct.

Chair Townsend understood the exact footage of the variance was not clear based on the application or the presentation given tonight.

Mr. Hazelrigg stated he was concerned with the pool being on the edge of the easement. Ms. John thought a smaller pool would be required to account for overdig. Ms. John believed moving the pool to the side yard was more logical, private and securable. Mr. Campbell agreed, but noted they were not ruling on that tonight. Ms. John understood, but felt the applicant potentially had another option.

Mr. Clithero understood the request was to vary or modify the application of the ordinance to the extent needed. Chair Townsend asked if a specific number was required in a situation such as this. Mr. Teeple suggested the variance would reduce the front yard setback along Forum Boulevard to 10 feet, and the setback would then be at the edge of the easement.

Mr. Campbell thought they had two options. One was to table the case to provide the applicant an opportunity to provide a number in terms of the variance requests and the other was to deny the variance requests. Mr. Clithero asked what the applicant would have to do to resubmit the application if the Board were to deny the request because they would still be requesting the same variance. Mr. Teeple understood an applicant could not appeal the same variance. Ms. Amin stated she thought the applicant could ask the Board to rehear the case assuming there had been a change in the situation.

Ms. John understood if the pool was located in the side yard, it would only need to be three feet from the property line and 60 feet from the front lot lines. Mr. Teeple stated that was correct. Ms. John thought the pool could be feasibly located in the side yard.

Mr. Schneider noted the variance requested was 10 feet from the boundary line and explained he did not believe tabling was an option.

Mr. Campbell made a motion to deny the variances as requested. The motion was seconded by Mr. Hazelrigg.

CASE NO. 1834 VOTE RECORDED AS FOLLOWS: VOTING YES: JOHN, TOWNSEND, CAMPBELL, HAZELRIGG. VOTING NO: CLITHERO. The variances requested were denied.

Chair Townsend explained the Council had asked each board and commission to review its duties, membership, etc. and asked if anyone had any suggestions for changes.

Mr. Hazelrigg made a motion asking staff to notify the Council that the Board did not recommend any changes since the Board’s role was defined by State Statute. The motion was seconded by Mr. Campbell and approved unanimously by voice vote.
There being no further business, the meeting adjourned at 7:47 p.m.

Respectfully Submitted,

Sheela Amin
City Clerk