

ALLEGANY COUNTY BOARD OF ZONING APPEALS

**IN RE: APPLICATION OF
RICHARD SHEARER
FOR A VARIANCE**

*
*

Case No.: 961

Hearing Dates: 07/10/2019

* * * * *

FINDINGS

This case came before the Allegany County Board of Zoning Appeals (the “Board”) upon Richard Shearer’s request for variance of the special setback requirements found in Section 360-126, Table 2, of the Allegany County Zoning Code.

A field inspection of the subject property was conducted by the members of the Board on July 8, 2019. The purpose of the site visit was to examine the site layout in order for them to develop an understanding as to where the proposed use would be located and to assess the ability to grant a variance in this particular situation.

At the hearings held on July 10, 2019, the Board considered the attached list of exhibits which consisted of information gathered by the Division Chief and information provided by other agencies and individuals.

The proposed use is a lean-to addition to an existing detached garage. It is located on applicant’s property located at 13814 Marshall Porter Road, LaVale, Allegany County, Maryland.

The Board considered testimony presented at the hearing in order to ascertain whether the proposed use and facts and circumstances surrounding this project would warrant the grant of a variance.

The Board’s findings are as follows:

1. The Board of Appeals is specifically authorized to grant a variance in this type of case by Section 360-141 (d) of the Allegany County Zoning Code.
2. That the proposed use is in harmony with current zoning in the area and the Allegany County Comprehensive Plan.
3. That Section 360-126, Table 2, of the Ordinance requires a minimum side setback distance of eight (8) feet from the property line.

4. That the evidence presented by the applicant establishes that the building, when erected, would have a side setback of approximately 0.79 feet.

5. That the proposed structure does not meet the minimum side setback requirements and as a result is subject to the provisions of the Allegany County Zoning Code regarding modifications of the zoning regulations found in Section 360-141 (d).

6. That as a prerequisite to the granting of a variance, the applicant must establish that the property whereon structures are to be placed is, in and of itself, unique and unusual in a manner different from the nature of the surrounding properties such that the uniqueness or peculiarity of the property causes the zoning provision to impact disproportionately upon the property.

7. That the applicant produced testimony that, due to the size and shape of the property, the proposed storage building could not be built absent the variance requested

8. That applicant presented no evidence from the neighboring landowner that said landowner would support his requested variance as that landowner would bear the burden of the reduced setback if the variance was granted.

9. That the Board voted to conditionally grant the requested variance provided applicant obtain written consent of the neighboring landowner.


10. That subsequent to the hearing, the applicant indicated that consent would be difficult to obtain and withdrew his variance request.


CONCLUSIONS

That based upon the requested withdrawal of the variance request, this matter is now considered moot.

ATTEST

BOARD OF ZONING APPEALS




Copies to: See Attached List

By: 

Mark Farris, Chairman

Attachment: Exhibits List

BOARD OF ZONING APPEALS

FOR ALLEGANY COUNTY, MARYLAND

CASE# 961

RICHARD SCHEARER

JULY 10, 2019

EXHIBITS LIST

FINAL

- A. An Allegany County *Land Use Permit Summary* covering a *Land Use Permit Application* and assorted administrative documents (i.e. invoice(s), receipts, etc.)
- B. Site Plan.
- C. Completed *Petition for Variance*.
- D. Photocopy of an Allegany County Tax Map for property identification.
- E. An *Adjoining Property Owners List* completed and signed by the Applicant.
- F. A *Notification of the Hearing*, with attached distribution list, dispatched to adjoining and adjacent property owners by the Secretary of the Board.
- G. *Notification of Hearing* dispatched to the Applicant by Secretary of the Board
- H. *Inter Office Memo*, prepared by the LDS office, distributed to the necessary *release agents* notifying them of this Case, date, time and requesting comment.
- I. *Public Notification*, dispatched to the Cumberland Times/News, for the purposes of notifying the general public of the hearing date, time and location.
- J. *Certification of Public Notice*, received from the Cumberland Times/News, certifying that the *Public Notification* was published June 22nd, 2019.
- K. Memorandum dated July 8th, 2019, from James A. Squires Jr., Division Chief, to the Allegany County Board of Zoning Appeals, regarding *site development plan* requirements.
- L. Multi-page document submitted by Mr. Schearer. Exhibit includes photographs of site, construction drawings and materials list.

Ms. Betty Flanagan
13808 Stone Point Road, SW
Cumberland, MD 21502

Ms. April Knipple
12708 Woodbine Road, SW
Cumberland, MD 21502

Mr. & Mrs. Eric Parker
12611 Woodbine Drive
Cumberland, MD 21502

Mr. Daniel Porter
14001 Marshall Porter Road, SW
Cumberland, MD 21502

Mr. David Porter
14001 Marshall Porter Road, SW
Cumberland, MD 21502

Mr. & Mrs. Bryan Ziler
13803 Stone Point Road, SW
Cumberland, MD 21502

Mr. & Mrs. Bryan Ziler
13803 Stone Point Road, SW
Cumberland, MD 21502

Honorable Jacob Shade
Allegany County Commissioners
701 Kelly Road - Suite 408
Cumberland,, MD 21502

Distribution List
Maildata BOZA Case 961
Hearing: July 10, 2019