



**MIDDLETOWN BOARD OF APPEALS
Middletown, Maryland 21769**

Board of Appeals Minutes

December 16, 2014

The Middletown Board of Appeals (BoA) met on Tuesday, December 16, 2014 at 7:00 p.m. at the Middletown Municipal Center, 31 W. Main Street, Middletown, MD 21769. Present were Chairman Fred Rudy, Kenneth Kyler, Tommy Routzahn, Alex Kundrick (alternate) and Zoning Administrator, Ron Forrester.

Others present: Dennis Jiffas (applicant), Scott Chilton (Mid Atlantic Modular LLC), Chris Malagari (Benchmark Engineering) and David Eisentraut.

Minutes – Chairman Rudy asked if there were any corrections to the November 19, 2014 minutes. Board member Kyler stated he would like the minutes amended for Case MT-B-14-2 (329 South Jefferson) to reflect the hardship that not having a backyard presented a safety factor for any children that would live at that property.

Action: Board member Routzahn motioned to approve the minutes as amended. Board member Kyler seconded. Motion carried (3-0).

Case MT-B-14-4 (Dennis Jiffas, 406 West Green Street and Summers Drive) – requesting a variance of 22 feet from the 35 foot front yard setback/Building Restriction Line (BRL) adjacent to Summers Drive to construct a duplex residential dwelling unit. Property is in a Town Commercial (TC) district. For residential uses in the TC neighborhood business district, these uses shall meet lot area requirements of the R-3 district.

Staff Report:

The Zoning Administrator stated that for this case all appropriate actions have been taken; it was properly advertised, adjoining property owners were notified and the property was properly posted in accordance with Section 17.44.070 of the Middletown Municipal Code.

The applicant is filing for a variance of 22 feet from one of the required 35 feet front yard setback/ BRL. Since this property is a corner lot where West Green Street and Summers Drive intersect, the applicant is requesting a variance for the front yard/front BRL of the property that faces Summers Drive. The 35 feet front yard setback/BRL for property that faces West Green

Street is met. The side yard setbacks/BRLs for property of 12 feet are met on the east and south boundaries of the property with adjacent lots.

Staff notes that the lot at 406 West Green Street is rectangular in shape. It is narrow in width with the south boundary at 67.97 feet and the north boundary 61.00 feet with a 13.93 feet diagonal boundary on the northwest corner of the property where West Green Street and Summers Drive intersect. The east and west boundaries of the lot are 185.98 feet and 176.05 feet in length respectively. This property is an infill lot created before the current zoning ordinances were in effect and is zoned TC. Residential development is authorized in a TC zoned district in accordance with Section 17.20.060 of the municipal code.

The dimensions and shape of this property are peculiar to this property and create a hardship by limiting the development options available to the applicant in building a duplex or a multifamily residential unit on the property if the front and side yard setbacks remain at 35 feet and 12 feet. The front and side yard setbacks total a depth 47 feet. When subtracted from a maximum width of 67.79 feet for the property, that leaves approximately 21 feet of buildable space on which to construct a residential unit or units. These physical limitations make it difficult for the applicant to construct a residential unit on the property in strict conformity with the provisions of the zoning ordinance. The approval of the variance requested is necessary to enable the reasonable use of the property. The applicant has not created these property conditions. Staff finds the approval of the variance applied for/requested is consistent with the other residential structures found on this section of West Green Street or on Summers Drive. Two duplex residential units already exist on Summers Drive at 411 West Main Street and 96/98 Summers Drive. The property across West Green Street at 409 West Green Street is the AMVETS building/property.

Additionally, many residential units on Summers Drive and this section of West Green Street have varying front yard setback distances that do not meet the current 35 foot front yard setback requirements in the zoning ordinance. The requested variance for this property's front yard setback adjacent to Summers Drive would not be inconsistent with existing residential structures front yard setback distances on Summers Street.

If the variance is granted, staff notes that it will not alter the essential character of the neighborhood in which the property is located on West Green Street or Summers Drive. As an infill lot, its development will not substantially impair the appropriate use or development of adjacent property, nor be detrimental to the public welfare. Staff supports the variance as presented by the applicant as reasonable to afford them relief from Section 17.16.070 of the Code while representing a reasonable modification of the regulation in use.

Discussion:

Chairman Rudy asked if any neighbors wanted to comment.

David Eisentraut, 96 Summers Drive, asked if it was going to be a solely residential duplex as previous plans had it listed as commercial. Mr. Jiffas stated that the property would be exclusively two family duplex residential.

Board member Routzahn asked is it would be rental properties. Mr. Jiffas said yes.

Mr. Eisentraut asked if the driveway access would be off of Summers Drive. Mr. Jiffas said yes and proceeded to explain the displayed plan drawings showing this.

Mr. Eisentraut asked what the distance was from Green Street to the driveway access. Mr. Jiffas stated approximately 100 feet and he continued to explain that parking for both units will be off Summers Drive.

Board member Kyler asked if there would be garages for each unit. Mr. Jiffas stated yes. There is parking for one car in the garage and one space for another car for each unit, in the driveway.

The Zoning Administrator was asked to bring up on the screen google image to see what the setback would be in relation to the surrounding properties. Once shown, Board member Kyler stated that what the applicant was asking was roughly consistent with other properties in the neighborhood.

Board member Routzahn stated that the applicant is at a disadvantage if following the code because he would only have 21 feet of buildable space. The Zoning Administrator concurred. Board member Routzahn also stated that the shape of the property was a disadvantage as well. The Zoning Administrator stated that the property is a long lot that is not very wide. The applicant would not be able to build a home of average dimensions following the code.

Board member Routzahn stated that this lot was not created by the applicant either. The Zoning Administrator stated that the lot was obviously subdivided at some point, and is also an in-fill lot.

Board member Kyler asked where the runoff would go.

Scott Chilton, Mid Atlantic Modular LLC, 27 Neptune Drive, Joppa, MD. The builder of the project; stated that with the contour of the lot, the water would run to the back. This was the reason the building was flipped to face West Green Street and not Summers Drive. If it faced Summers Drive, they would have to do more work on the lot to address the run off. By flipping the house as suggested there is little impact to any of the neighbors.

The Zoning Administrator asked if this would meet the new stormwater management regulations. Chris Malagari, Benchmark Engineering, 8480 Baltimore national Pike, Suite 315, Ellicott City MD. The engineer of the project; stated that any stormwater management required for this would more than likely be dry wells which would meet the current MDE requirements.

The Zoning Administrator asked if that was a factor in where you placed the units you are proposing to build. Mr. Malagari said yes. The topography drops from Green Street toward Main Street considerably. The idea was that any water running off the proposed driveway would be a disconnect flow from the impervious surface onto the grass. Rooftop impervious surface would be treated using drywells and roof feeders (pipes directing to the underground dry wells).

Board member Routzahn stated that the Board of Appeals had approved something similar to this one alley over approximately two years ago.

Alex Kundrick, 3 Crone Lane, stated that he drove up Summers Lane and realized that the turn in to the proposed driveway would be very tight with that proposed driveway entrance angled as shown on the drawing. The builders might have to change the angle for the approach.

The Zoning Administrator stated that that particular issue would have to be addressed by the Planning Commission. This was not the forum in which to address that.

Board member Kyler stated that there are hardships that have been presented.

Chairman Rudy asked for any other comments from the audience. None were given.

Action:

Board member Kyler motioned to grant the variance requested. The hardship being the shape of the lot and the front setback is consistent with the rest of the properties on Green Street. Board member Routzahn seconded. Motion carried (3-0).

The meeting adjourned at 7:48 p.m.

Respectfully submitted,

Annette Alberghini
Town Receptionist