



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

Meeting Minutes for March 29, 2016

The Middletown Board of Appeals (BoA) met on Tuesday, March 29, 2016 at 7:00 p.m. at the Middletown Municipal Center, 31 W. Main Street, Middletown, MD 21769. Present were BoA members Fred Rudy (Chairman), Tommy Routzahn, Tim Coakley, Alex Kundrick (Alternate) and acting Zoning Administrator, Cindy Unangst.

Others present: Jennifer Wilson (resident) and Dennis Jiffas (property owner).

Election of Board of Appeals Chairman for 2016 – The acting zoning administrator opened the floor for nominations for chairman of the Board of Appeals for 2016. Tommy Routzahn nominated Fred Rudy to continue as chairman. Tim Coakley seconded. Motion passed (3-0).

Minutes – Chairman Rudy asked if there were any corrections to the October 15, 2015 BoA meeting minutes as submitted. Hearing no comments, the minutes were approved as submitted.

The acting zoning administrator stated that for both cases all appropriate actions were taken; they were properly advertised, adjoining property owners were notified and the properties were properly posted in accordance with Section 17.44.070 of the municipal code.

Case MT-B-16-1 (Dennis Jiffas, 406 West Green Street) – Sections 17.16.070 and 17.20.060. Applicant requests a variance of 22 feet from the 35 foot front yard setback/Building Restriction Line adjacent to Summers Drive to construct duplex residential dwelling unit. Property is in 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 Recommendation:

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 eastern and southern boundaries of the property.

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 for commercial development. Residential development is authorized in a Town Commercial zoned district in accordance with Section 17.20.060 of the municipal code.

These conditions 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 will not alter the essential character of the neighborhood or district on West Green Street or Summers Drive, nor substantially impair the appropriate use or development of adjacent properties. 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.

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:

The acting zoning administrator stated that a variance for this property was approved by the Board of Appeals in December 2014. The building permit was not obtained within a year so the variance expired. This is why the applicant was bringing it before the Board of Appeals again.

Chairman Rudy asked for comments from the audience.

Mr. Routzahn asked if the applicant was ready to begin construction. Mr. Jiffas replied yes.

Action:

Board member Routzahn motioned to approve the variances as requested. Board member Coakley seconded. The motion carried (3-0).

Case MT-B-16-2 (Randall and Jennifer Wilson, 101 North Pointe Terrace) - Section 17.32.130 Swimming pools. All private swimming pools shall be located no closer than 30 feet from the nearest interior living space of a neighboring property, nor closer than eighteen feet to any property line.

Staff Recommendation:

The applicant is filing for a variance of approximately 8’ from the required 18’ setback for placement of an above ground pool to the rear of the existing principal dwelling located at 101 North Pointe Terrace. This lot is located in the North Pointe subdivision and is a corner lot with 35-foot setbacks from both West Green Street and North Pointe Terrace, and 12-foot setbacks on the south and east sides of the dwelling.

Based on the application it appears that the shallowness of the rear yard due to its being a corner lot, and the buried propane tank on the west side of the property, presents a hardship for placement of an above ground pool, which is why the pool is proposed to be located less than 18 feet from the rear and side property lines. Current County BOCA code requires a minimum of 6’ of setback from property lines for compliance. However, as with most municipal ordinances, the Town requires 18’ due to the close proximity of most homes in urban settings to one another, and the potential for flooding out neighboring lots. Due to the location of this property and the topography of the lot in conjunction with the neighboring lots, there would be no potential for flooding as this property it down gradient from the surrounding lots.

Discussion:

Chairman Rudy asked for comments from the audience.

The acting zoning administrator stated that there was a small error in the advertising for this property. The ad had stated that the request was for a 10 foot variance. In actuality, it was for an 8 foot variance. She also stated that a neighbor Mr. Martino had contacted her regarding the pool’s proposed location. Once he received the information he had no objection to the pool variances.

The acting zoning administrator reviewed photos of the property showing where the proposed pool will be located. The buried propane tank was identified. The stakes marking the pool location were identified. The applicant showed where the proposed landscaping will be located. She stated that there will also be a 3 foot boundary around the outside of the pool that will have to be maintained.

Action:

Board member Coakley motioned to approve the variances as requested. Board member Routzahn seconded. The motion carried (3-0).

The meeting adjourned at 7:18 p.m.

Respectfully submitted,

Annette Alberghini
Recording Secretary