

BOARD OF APPEALS AGENDA

August 30, 2022 - 7pm

Call to order: Pledge of Allegiance

7:00 PM [Acceptance of, 2022, meeting minutes](#)

Public Hearing:

7:05 PM *Case MT-B-22-3*

Variance of approximately 15' from the 18' rear yard setback to construct a swimming pool.

[Staff Report - Attached](#)



MIDDLETOWN BOARD OF APPEALS
Middletown, Maryland 21769
Meeting Minutes for June 28, 2022
Case # MT-B-22-2

The Middletown Board of Appeals (BoA) met on Tuesday, June 28, 2022, at 7:00 p.m. Present were BoA members Daphne Gabb (Chairwoman), Alex Kundrick, Jonathan Minchoff, Robert Wilkes (Zoning Administrator) and Annette Alberghini (recording secretary).

Others present: Michael and Kristie Franklin (301 Ingalls Drive)

Minutes – Chairwoman Gabb asked if there were any corrections to the March 30, 2022, BoA meeting minutes as submitted. Hearing no comments, the minutes were approved as submitted.

Case MT-B-22-2 - The applicant is filing for a variance of approximately 10' from the 18' right yard setback for the placement of an inground pool to the rear of the existing principal dwelling located at 301 Ingalls Drive. The lot is in the Middletown Glen subdivision. The property in question is .152 acres and the proposed pool is 27.5'x10.9'.

Based on the application, the applicant states that the variance would allow for a slightly larger pool, which is needed for health reasons. There would be no potential for flooding of adjacent lots or properties. The property in question is in fact shallow, at approximately 109', it is only 61' wide as well. There are no neighbors to the rear of the property and there is a storm water basin to the rear of the property. Staff believes a variance of 10' from the 18' right yard setback is acceptable based on the narrow lot and the applicant has made an effort, design wise, to properly fit the pool within the space provided if a variance was granted.

Action: Motion by Board member Minchoff to approve the variance of approximately 10' from the 18' right yard setback. Seconded by Board member Kundrick. Motion carried (3-0).

The meeting adjourned at 7:04p.m.

Respectfully submitted,

Annette Alberghini
Office Manager

MIDDLETOWN BOARD OF APPEALS

ZONING ADMINISTRATOR
STAFF REPORT

Case #: MT-B-22-3

Applicant: Robert Wilkes
207 Lay la Drive
Middletown, MD 21769

Location: 207 Layla Drive
Middletown, MD 21769

Request: Variance of approximately 15' from the 18' rear yard setback to construct a swimming pool

Zoning: R-1 Residential

Section(s) of the Code that Apply:

- 17.32.130 – Swimming pools (see enclosure)
- 17.44.050 – Variances (see enclosure)
- 17.44.070 - Public Hearings (see enclosure)

Staff Findings and Recommendation:

The applicant is filing for a variance of approximately 15' from the 18' rear yard setback for the placement of an inground pool to the rear of the existing principal dwelling located at 207 Layla Drive. The lot is in the Foxfield subdivision. The property in question is .4667 acres and the proposed pool is 18'X38'.

Based on the application, the applicant states that the variance would allow for an average size pool, which would accommodate a large family. There would be no potential for flooding of adjacent lots or properties. The property in question is oddly shaped (triangular) and has a very steep slope to the rear of the property. There are two neighbors adjacent to the property: The Town of Middletown to the South and Gary and Michelle Hill to the West. Staff believes a variance of approximately 15' from the 18' rear yard setback is acceptable based on the shape/slope of the lot. In addition, the applicant is willing to move an existing shed, remove a tree and build a retaining wall to bring the pool further away from the property line.

Variations are granted based on Section 17.44.050 found in Town Code and copied here.

17.44.050 - Variations.

- A. Filing of Variance. An application may be made to the board of appeals for a variance where it is alleged that the provisions of the zoning ordinance inflict unnecessary hardship upon the applicant. The application must be on a form provided for that purpose by the town. The applicant must provide all the information requested on the form, together with any other information and data that may be required to advise the board on the variance, whether such information is called for by the official form or not.
- B. Standards for Variations. Where there is unnecessary hardship, the board may grant a variance in the application of the provisions of this title provided that the following findings are made where relevant in a given case:
 - 1. That there are unique physical circumstances or conditions including irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property, and that the unnecessary hardship is due to such conditions, and not the circumstances or conditions generally created by the provisions of the zoning ordinance in the neighborhood or district in which the property is located;
 - 2. That because of such physical circumstances or conditions, the property cannot be developed in strict conformity with the provisions of the zoning ordinance without unnecessary hardship and that the authorization of a variance is therefore necessary to enable the reasonable use of the property;
 - 3. That such unnecessary hardship has not been created by the applicant.
 - 4. That the variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, nor substantially or permanently impair the appropriate use or development of adjacent property, nor be detrimental to the public welfare;
 - 5. That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least modification possible of the regulation in issue.
- C. No grant of a variance shall be authorized unless the board specifically finds that the condition or situation of the specific piece of property or intended use of such property, for which the variance is sought, is not of so general or recurrent a nature as to make reasonably practicable the formulation of a general regulation for such conditions or situation.
- D. Conditions. In granting any variance, the board may attach such reasonable conditions and safeguards as it considers necessary to implement purposes of this zoning ordinance.

(Ord. No. 15-12-02, § I, 12-14-2015; Ord. 182 § 10.4, 1976)

Staff recommends that the application for variance be APPROVED based on Section 17.44.050 B1-4 found in Town Code.

If the variance applied for and requested is granted, staff notes that it will not alter the essential character of the neighborhood or district in which the property is located, nor substantially impair the appropriate use or development of adjacent property and/or confronting properties, nor be detrimental to the public welfare.

Andrew Bowen
Town Administrator
zoning@ci.middleton.md.us

Enclosures

CASE No.

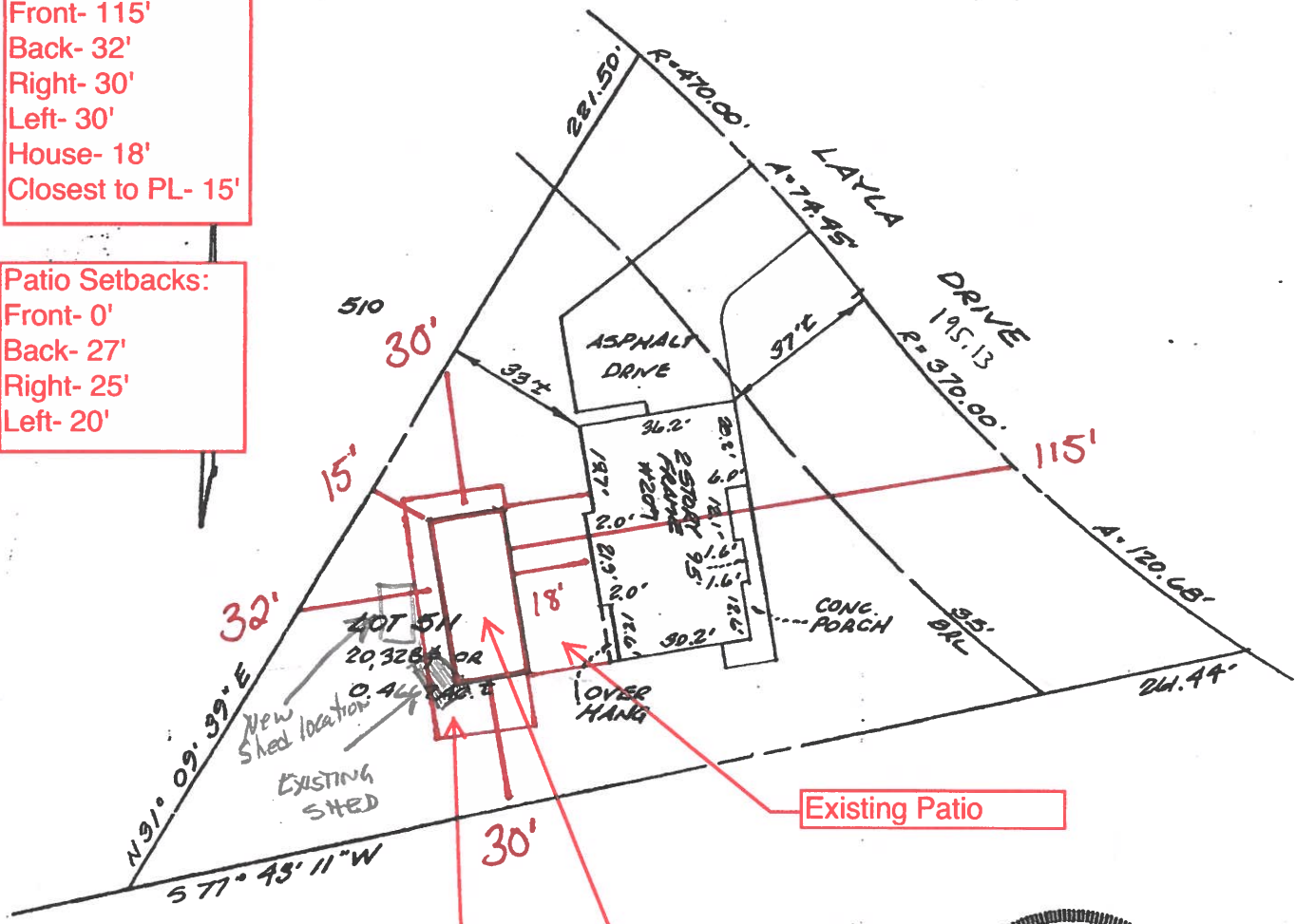
NOTE: This location for title purpose only — not to be used for determining property lines. Property corner Markers Not guaranteed by this location.

NOTE: FLOOD ZONE LINES ARE NOT GUARANTEED BY THIS SURVEY. A FLOOD EVALUATION SURVEY WILL BE REQUIRED TO ESTABLISH THE LIMITS OF FLOOD ZONES THAT MAY AFFECT THIS PROPERTY.

FLOOD ZONE: C
 COMMUNITY PANEL
 NO.: 210027-0175C
 DATED: 12-3-91

Pool Setbacks:
 Front- 115'
 Back- 32'
 Right- 30'
 Left- 30'
 House- 18'
 Closest to PL- 15'

Patio Setbacks:
 Front- 0'
 Back- 27'
 Right- 25'
 Left- 20'



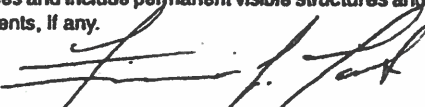
LOCATION OF HOUSE
 LOT 511 PHASE 3
 SECTION IV
 FOXFIELD @ MIDDLETOWN
 #207 LAYLA DRIVE
 MIDDLETOWN ELECTION DISTRICT NO. 3
 FREDERICK CO, MARYLAND

Proposed Pool Deck

18'x38' Inground Pool, 684 sq ft

Existing Patio

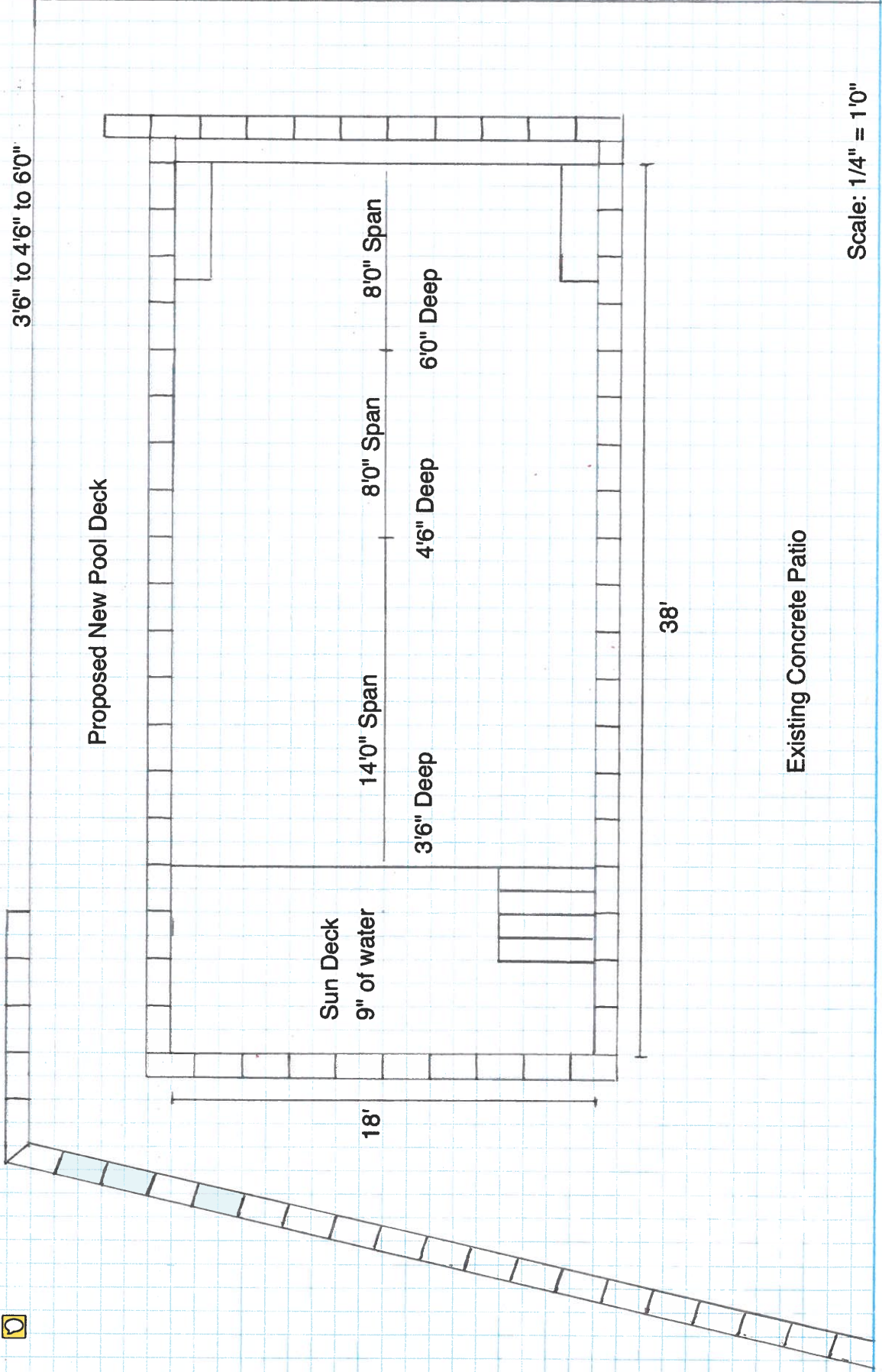


CERTIFICATE	REFERENCES	ZENITH SURVEYS SURVEYING • PLANNING		
I hereby certify that the property delineated hereon is in accordance with the Plat of Subdivision and/or deed of record, that the improvements were located by accepted field practices and include permanent visible structures and encroachments, if any.  TITLE REPORT NOT FURNISHED	PLAT BK. 70	200 Dill Avenue • Frederick, MD 21701 301-831-4944 • 301-695-5594		
	PLAT NO. 47	DATE OF SURVEYS	SCALE: 1" = 40'	
	LIBER	WALL CHECK	DRAWN BY: JTK	
	FOLIO	HSE LOC 1-14-03	JOB NO.: 03-045	
	BOUNDARY			

Robert and Wendee Wikes
207 Layla Dr
Middletown, MD 21769



Pool Details:
18'0" x 38'0"; 684 sq ft
Pool Depths:
3'6" to 4'6" to 6'0"



Board of Appeals
Town of Middletown, Maryland

Date Filed: _____
Map/Grid/Parcel/Lot: _____
Zoned: _____

APPEAL FOR VARIANCE UNDER ZONING ORDINANCE

Appeal is hereby made for a variance from a requirement of the Zoning Ordinance, as follows:

Subdivision: Foxfield Lot: 511 Block: _____

Location: 207 Layla Drive
N S E W side of road; distance N S E W from nearest intersecting road

Appellant's present legal interest in above property: (Check one)

Owner/Joint Owner _____ Lessee _____ Contract to lease or rent
_____ Contract to purchase _____ Other: (Please Describe) _____

Ordinance section, and subsection if any, containing a requirement(s) from which variance is desired:

17.32.130 - Swimming pools Subsection A

Specify the particular requirement(s) from which a variant is desired, in that section or subsection:

A.Setbacks...nor closer than eighteen (18) feet to any property line (measured from the edge of the pool).

Describe the nature and extent of the desired variance from such Ordinance requirement(s):

Requesting a variance of approx. 15 feet from the required 18 feet to any property line.

Check reason(s) why the Ordinance requirement(s) in question would result in peculiar & unusual practical difficulties to/or exceptional or undue hardship upon the owner of the property due to exceptional:

_____ Narrowness
 Shallowness of the property, existing now and on the date of enactment
 Shape of the requirement(s) in question
 Extraordinary situation of the property. Describe briefly (or attach documentation):

The lot is a triangular shaped lot with a very steep slop in the rear yard.

If exceptional narrowness, shallowness or shape of the property is claimed, give the date of recording of plot of present subdivision if any: 1-14-2003; or if property is unsubdivided, give the date on which a deed conveying the identically-bounded tract was first recorded: _____.

Briefly describe the difficulty or hardship upon the owner by reason of the above narrowness, shallowness, shape, condition or situation of the property, if the requested varaince is not granted (or attach documentation):

See Attached

Has any previous petition or appeal involving this property been made to the Board: If so, give Case Number(s):

No

I hereby affirm that all of the statements and information contained in or filed with this appeal are true and correct.

Signature of Appellant(s) 207 Layla Drive, Middletown MD 21769
Address of Appellants

Phone# 240-793-3362

Sworn to and subscribed before me this _____ Day of _____, 20_____

My Commission expires _____

Notary Public

Appeal for Variance Under Zoning Ordinance (cont.)

Our appeal for a variance is based on having a shallow odd shaped lot with part of the yard having a very steep hill. We will take the following measures to increase the distance the pool will be from the rear property line: we will remove a tree, move our shed, build a 3' by 60' retaining wall and cut out part of our concrete patio to move the layout of pool further away from the rear property line.

This will allow us to build an average size pool to accommodate our large family in our forever home.

Town of
MIDDLETOWN, MARYLAND

LIST OF ADJOINING AND CONFRONTING PROPERTY OWNERS

Case Number _____

Appellant _____

Proceedings under the Zoning Ordinance require that notice of public hearing be given.

It is the responsibility of the appellants and petitioners to supply ACCURATE names and CORRECT addresses (must have house numbers or P.O. Box numbers) of all adjacent and confronting property owners on this form, as shown in current County Land Records.

Court decisions indicate that compliance with notice requirements is essential to jurisdiction of the approving body and therefore to the validity of its decision.

NAME

ADDRESS

GARY/MICHELLE HILL

205 LAYLA DRIVE
MIDDLETOWN, MD 21769

TOWN OF MIDDLETOWN

31 W. MAIN ST.
MIDDLETOWN, MD 21769

John D. Miller
Burgess

Commissioners
Richard L. Dietrick
Jennifer J. Falcinelli
Christopher I. Goodman
Jean B. LaPadula
Kevin E. Stottlemyer

Mailed to: MIDDLETOWN TOWN OFFICE
205 Layla Drive

Middletown
Founded in 1767



August 30, 2022

NOTICE TO ADJACENT PROPERTY OWNERS

Board of Appeals Case Number

MT-B-22-3

An appeal has been received from an applicant located at 207 Layla Drive, Middletown, MD. The applicant has requested a variance of approximately 15' from the 18' rear yard setback to construct a swimming pool. The setback requirements may be found in section 17.32.130 of the Town Code.

The applicant was referred to the Middletown Board of Appeals (BoA) because only the BoA may grant variances to the Middletown Municipal Code. The public meeting to hear this variance request will be held on August , 2022, at 7:00p.m. The meeting will be held in person and virtually, directions can be found here.

Please follow the attached link to join virtually.

Meeting link

<https://call.lifesizecloud.com/12429575>

Extension

12429575

Passcode

21769

Citizens are welcome to attend the public meeting at which time those wishing to be heard will be recognized by the BoA chairperson to present their comments. The public meeting is not limited to only those citizens receiving copies of this notice. If you are aware of property owners who, for any reason failed to receive a copy of this notice, and who you believe have an interest in this public meeting, it is requested that you inform them of this public meeting.

For further information, contact the Middletown Town Office at your earliest convenience. Individuals requiring special accommodations are requested to contact Andrew Bowen, Town Administrator at (301) 371-6171, so that proper accommodations can be made.

Andrew Bowen
Town Administrator