



MIDDLETOWN BOARD OF APPEALS
Middletown, Maryland 21769

Meeting Minutes for July 26, 2017

The Middletown Board of Appeals (BoA) met on Thursday, July 26, 2017 at 7:00 p.m. at the Middletown Municipal Center, 31 W. Main Street, Middletown, MD 21769. Present were BoA members Daphne Gabb, Tim Coakley, Tommy Routzahn, Alex Kundrick, Ron Forrester (Zoning Administrator) and Annette Alberghini (Recording Secretary).

Others present: Peter Gauthier (applicant).

Election of Chairperson for the Board of Appeals for 2017 - The Zoning Administrator opened the floor for nominations for chairman of the Board of Appeals for 2017. Board member Coakley nominated Daphne Gabb as chairperson. Tommy Routzahn seconded. Motion passed (3-0).

Minutes – Chairperson Gabb asked if there were any corrections to the February 22, 2017 BoA meeting minutes as submitted. Hearing no comments, the minutes were approved as submitted.

Case MT-B-17-2 (701 Glenbrook Drive) – The applicant, Peter Gauthier, is filing an appeal for variances from requirements contained in Section 17.32.130 – Swimming pool - of the Middletown Municipal Code. The applicant is requesting a variance of twelve (12) feet from the required eighteen (18) feet setback / building restriction line from any property line for the installation of a private in-ground swimming pool in side yard of corner lot in a residentially zoned property in the Glenbrook subdivision.

The Zoning Administrator stated that for this case all appropriate actions were 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 municipal code.

Staff Report:

The applicant is filing for variances of twelve (12) feet from the required eighteen (18) feet setback distance for the placement of an in-ground pool in the west and north side yards of the property located at 701 Glenbrook Drive in the Glenbrook subdivision. This property is a corner lot with 25-foot front yard setbacks from Glenbrook Drive and Wagon Shed Lane, and 8-foot and 12-foot setbacks for the west and north side yards respectively.

Staff notes that the lot at 701 Glenbrook Drive is 0.288672 acres (10,541 square feet) and polygon in shape with irregular dimensions and is located in an R-1 residentially zoned district. The front yard of the property, because it is a corner lot, includes Glenbrook Drive and Wagon Shed Circle. These property

conditions (irregular shape, corner lot and the position of the SFD on the property) create an unnecessary hardship for the applicant. The hardship is due to the property's physical shape and dimensions and not conditions generally created by the provisions of the zoning ordinance for this neighborhood in the Glenbrook subdivision. Because this property is a corner lot with two front yards with twenty-five (25) foot setbacks and side yards with eight (8) and twelve (12) foot setbacks and because of the placement of the SFD on the property, these physical features make it difficult for the applicant to install a private swimming pool on the property in strict conformity with the provisions of the zoning ordinance. The west side of the property has a setback of eight (8) feet which is unique to the Glenbrook subdivision. The applicant has not created these property conditions. The approval of the variances requested by the applicant are reasonable to enable the installation of an in-ground swimming pool with the dimensions submitted with the applicant's zoning certificate submitted to the town. Staff notes that a smaller pool would require smaller variances from the required eighteen (18) foot variances required under Section 17.32.130.

The conditions for this property (irregular shape, corner lot and positioning of the SFD on the property) only permit a swimming pool to be installed at a specific location on the northwest corner of the property. With the irregular dimensions of the proposed in-ground swimming pool, the requested twelve (12) foot variances from west side yard and north side yard required eighteen (18) foot setbacks are required to install the swimming pool as submitted. Staff notes that the current Frederick County BOCA code requires a minimum of six (6) feet setback from all property lines for the installation of a private swimming pool. Staff notes that many municipal codes including Middletown's Municipal Code, require a swimming pool be installed with a minimum setback distance from all property lines of eighteen (18) feet due to the smaller lot sizes and the closer proximity of SFD / residential structures in residentially zoned communities. One reason cited for the greater setback distances in municipal codes is the possibility of flooding adjoining and adjacent properties if an installed private swimming pool leaks. Staff notes that the physical distances noted between the SFDs at 703 Glenbrook Drive and 4 Wagon Shed Circle and the 701 Glenbrook Drive property seem to be sufficient to minimize any flooding threat from a swimming pool installed on this property. Also, the lot itself slopes towards an open space area behind the property and away from other residences.

Staff noted that the applicant has not created these property conditions. The authorization of the variances requested are necessary to enable the reasonable use of this property by the applicant to install a private in-ground swimming pool. Additionally, these variances will not alter the essential character of the neighborhood, nor substantially impair the appropriate use or development of adjacent property and/or confronting properties, nor be detrimental to the public welfare. Staff supports the variances as requested as reasonable to afford the homeowner/ applicant relief from Section 17.32.130 of the municipal code while representing a reasonable modification of the regulation in use.

Discussions:

Chairperson Gabb asked the applicant if he had any additional comments for the BoA. Mr. Gauthier stated that the Zoning Administrator had summed everything up nicely, so he nothing more to add.

The applicant was asked if any adjacent property owners had any comments or objections to the swimming pool or its' location. The applicant stated that adjacent property owners had been shown the plans and seemed fine with its' location.

Action:

Board member Routzahn motioned to approve the variance as requested. The hardship being identified as the property being an irregularly shaped corner lot. Board member Coakley seconded. The motion carried (3-0)

The meeting adjourned at 7:12 p.m.

Respectfully submitted,

Annette Alberghini
Recording Secretary