



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

**Meeting Minutes for October 27, 2020**

**Case #MT-B-20-6 and #MT-B-20-7**

The Middletown Board of Appeals (BoA) met on Tuesday, October 27, 2020 at 7:00 p.m. via Zoom meeting. Present were BoA members Daphne Gabb (Chairwoman), Sean Mahar, and Jonathan Minchoff (alternate), Mark Hinkle (Zoning Administrator) and Patty Guyton (recording secretary).

Others present: Keith Delauter (LDS), Trina Delauter (LDS), Tim Ward (Sign Solutions), and Loree John (622 Glenbrook Drive)

**Minutes** – Chairwoman Gabb asked if there were any corrections to the September 30, 2020 BoA meeting minutes as submitted. No corrections reported. Minutes were approved as submitted.

**Case MT-B-20-6 (Loree John – 622 Glenbrook Drive)** The applicant is filing for a variance of approximately 10' from the 18' rear yard setback for the placement of an inground pool to the rear of the existing principal dwelling located at 622 Glenbrook Drive. The lot is in the Glenbrook subdivision. The property in question is .26 acres and the proposed pool is 38'x20'.

Based on the application, the applicant states that the yard is narrow at 34' and does not allow for a reasonable size swimming pool with current setbacks. There would be no potential for flooding of adjacent lots or properties. The property in question is in fact shallow, at approximately 40', it is about 90' wide as well. The shallowness of the lot was exacerbated with the addition of a deck built by the applicant and permitted under Frederick County permit number 20946; the deck was approved 4/22/2006. Staff believes a variance of 10' from the 18' rear yard setback is acceptable based on the shallowness of the lot and the applicant has made an effort, design wise, to properly fit within the space provided with a variance granted.

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

17.44.050 - Variances.

- 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 Variances. 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 B3* 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.

**Discussion** – Loree John (622 Glenbrook Drive) stated that Frederick County is concerned about the distance the pool needs to be away from the deck for safety issues. The distance the pool needs to be away from the deck and the shallowness of the yard is the reasons for the 10-foot variance request. The Board members agree that the pool needs to have a certain setback from the deck for safety issues.

**Action:** Board member Mahar motioned to approve the variance of a 10’ from the 18’ required setback of the rear yard. Seconded by member Minchoff. Motion carried (3-0)

**Case MT-B-20-7 (LDS – 201 South Church Street)** - The applicant has requested the following variance from the Middletown Municipal Code, Section 17.36.100(A3,A4) (*Design Standards for Permitted Sign Types*) that states Freestanding signs shall be “... maximum height eight (8) feet and maximum size 50 (fifty) square feet.” The variance request is for the sign area to be approximately 52 square feet and 17’ 6” tall at the peak of the arch. The variance is being requested to allow for replacement of the existing sign. The proposed sign size and location ensure safe ingress and egress, does not reduce parking spaces, and ensures readability for all tenants.

Section(s) of the Code that Apply:

17.36.100 A– Design standards for permitted sign types-Freestanding Sign  
17.44.050 – Variances (see enclosure)  
17.44.070 - Public Hearings (see enclosure)

**Staff Recommendation:**

The applicant is filing a request for a variance from Section 17.36.100 (A3 A4) of the Middletown Municipal Code to accommodate the replacement of the current signage for LDS, Inc. The variance request is for the sign to be approximately 52 square feet and 17’ 6” tall, which is over the limit of the 50 square feet and 8’ tall requirement found in section 17.36.100 (A3 A4).

Staff would note that the applicant’s proposal includes replacement of the existing sign. The current sign is approximately 90 square feet and stands approximately 23.4’ tall. The proposed sign as presented, would be smaller in size, more appealing, and attractive than the existing sign. The proposed sign would allow for proper advertisement and readability for existing and future tenants. The Town boards have been actively pursuing an effort to lower sign height in Town along with ongoing beautification efforts throughout Town regarding signage.

The maximum height allowed in Town Code would create *an unnecessary hardship* and negatively impact the businesses located at this site due to the fact that the sign would be hidden behind parked vehicles and the slope of the road would further decrease the visibility. If the sign were lowered to meet Town Code, it could also negatively impact sight lines of motorists trying to enter or exit the area and reduce the number of parking spaces for patrons.

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 on the 200 block of South Church Street, 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 variance as presented by the applicant as reasonable to afford them relief from Section 17.36.100(A3 A4) of the Middletown Municipal Code while representing a reasonable modification of the regulation in use.

**Discussions:** Mike Tabor (Owner of Church Street Business Center) was unable to attend the meeting but sent an email with his approval of the new sign.

**Action:** Board member Minchoff motioned to approve the variance from the Middletown Municipal Code, section 17.36.100(A3, A4) as zoning staff recommended. Seconded by member Mahar. Motion carried (3-0)

The meeting adjourned at 7:15p.m.

Respectfully submitted,

Patty Guyton  
Town Receptionist