

MIDDLETOWN BOARD OF APPEALS

ZONING ADMINISTRATOR
STAFF REPORT

Case #: MT-B-22-4

Applicant: Elizabeth Souder
212 E. Main Street
Middletown, MD 21769

Location: 212 E. Main Street
Middletown, MD 21769

Request: Variance of approximately 5.5' from the 18' right 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 5.5' from the 18' right rear yard setback for the placement of an inground pool to the rear of the existing principal dwelling located at 212 E. Main Street. The property in question is .5142 acres and the proposed pool is 18'X36'.

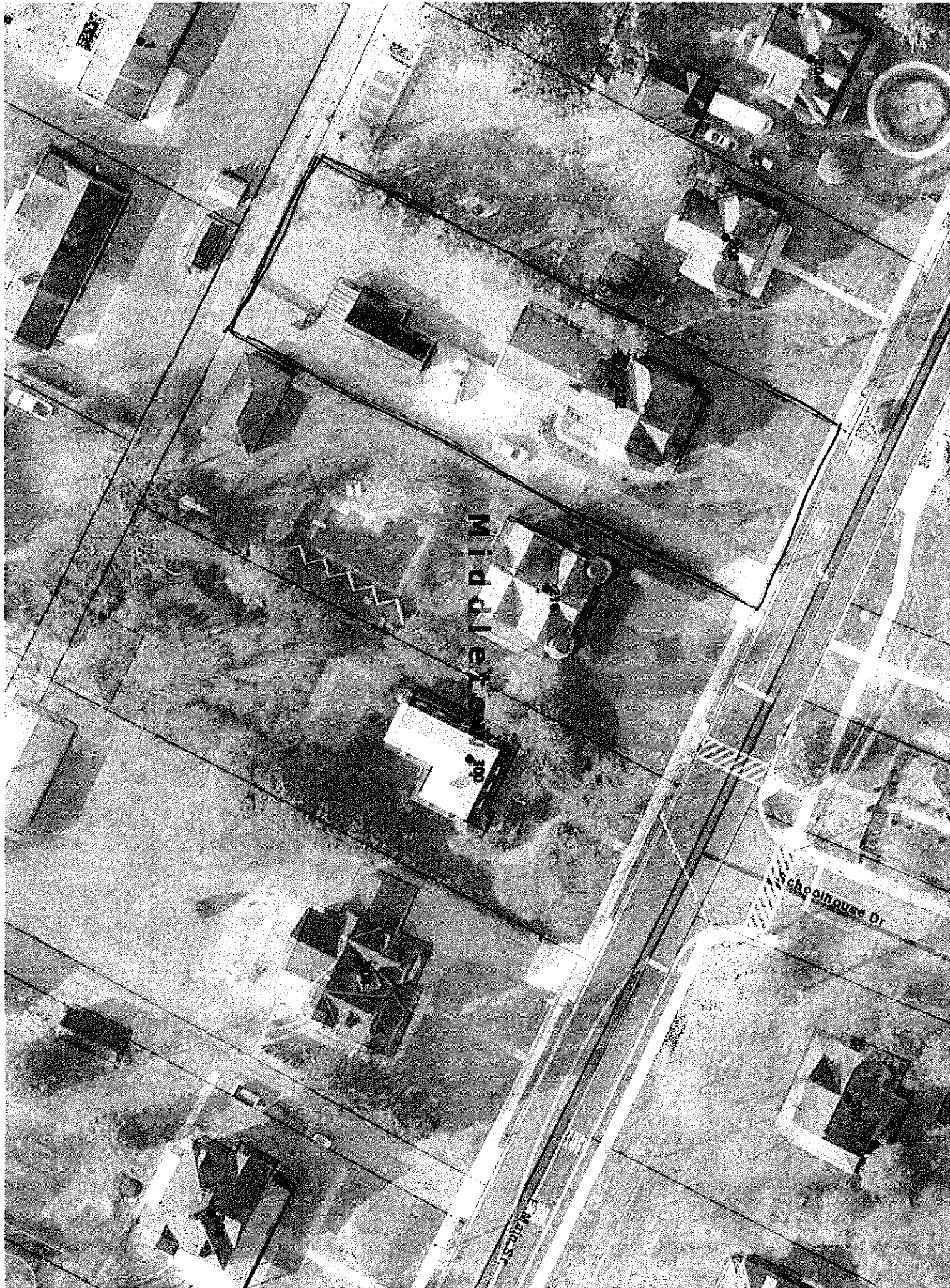
Based on the application, the applicant states that the lot is long and narrow (approx. 80' wide) and they're permanent structures (a carriage house and a driveway) that create a very narrow space (approximately 38 feet) for a pool and deck. A variance would allow for an average size rectangle pool to fit in the space if the variance was approved. 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 5.5' from the 18' right rear yard setback is acceptable based on the space between the carriage house and westside property line. Additionally, the request is in line with recent variance appeals.

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.

Robert Wilkes
Zoning Administrator
zoning@ci.middleton.md.us

Enclosures



BOARD OF APPEALS AGENDA

September 27, 2022 - 7pm

Call to order: Pledge of Allegiance

7:00 PM Acceptance of August 30, 2022, meeting minutes

Public Hearing:

7:05 PM *Case MT-B-22-4 - Souder*

An appeal has been received for a variance of approximately 5.5' from the 18' right side yard setback, for the placement of an inground pool, to the rear of the existing principal dwelling located at 212 E. Main Street.

Staff Update

If you would like to attend the meeting virtually, please follow the link below:

Meeting link

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

Extension

12429575

Passcode

21769

September 12, 2022

NOTICE TO ADJACENT PROPERTY OWNERS

Board of Appeals Case Number

MT-B-22-4

An appeal has been received from an applicant located at 212 E. Main Street, Middletown, MD. The applicant has requested a variance of approximately 5.5' from the 18' right side 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 **September 27, 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.

Robert Wilkes
Zoning Administrator

Town of
MIDDLETOWN, MARYLAND

LIST OF ADJOINING AND CONFRONTING PROPERTY OWNERS

Case Number MT-B-22-4

Appellant Souder

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.

<u>NAME</u>	<u>ADDRESS</u>
Jason + Jessica Elder	216 East Main St.
XXXXXXXXXX Celeste Washington	208 East Main St.
Dale Guyton	1 Linden Blvd
Robyn Shafer	3 Linden Blvd

NOTICE OF PUBLIC HEARING

TOWN OF MIDDLETOWN

Notice is hereby given that the Board of Appeals of Middletown will hold a Public Hearing on September 27, 2022, beginning at the hour of 7:00 PM.

An application for variance appeal has been received from an applicant for a property located at 212 E. Main Street, Middletown, MD. The request for variance is to allow a setback of approximately 12' 6" for a swimming pool as found in section 17.32.130 of the Town Code which states, "Setbacks. All private swimming pools shall be located no closer than thirty (30) feet from the nearest interior living space of a neighboring property (garages not included), nor closer than eighteen (18) feet to any property line (measured from the edge of the pool)."

Please follow the attached link to join virtually.

Meeting link

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

Extension

12429575

Passcode

21769

Copies of the proposed Appeal for Variance are available at the Middletown Municipal Center for any citizens wishing to receive a copy of the proposed appeal materials for review.

All citizens wishing to be heard will be recognized at this hearing. Any person desiring a stenographic transcript shall be responsible for supplying a competent stenographer.

Individuals requiring special accommodations are requested to contact Andrew Bowen, Town Administrator at (301)371-6171 at least 48 hours prior to the Public Hearing.

RECEIVED

AUG 26 2022

Town of Middletown



Town Approval: ___ Yes ___ No

31 West Main Street
Middletown, MD 21769

Phone 301-371-6171 (fax: 6474)

Middletown Planning Department

Zoning Certificate

Owner: Elizabeth Souder
Address: 212 East Main St
Middletown MD 21769
Phone: 240 315 6158
Zoning District: R2 Lot #: _____
Subdivision: _____
Setbacks: Left _____ Right _____
Front _____ Rear _____

Applicant: same
Address: _____
Phone: _____
Email: ewynne6@yahoo.com
Permit # _____
Outside Agency Review: _____ EH _____ SHA _____

Proposed Improvements/changes to property/new use of property: _____

Zoning Application Fee

Please Check

Residential Building Permits

- Internal/External Improvements \$25.00
- New Single Family Construction \$200.00
- New Multi Unit \$200.00 + \$100.00 each unit
- Demolition \$50.00
- Home Occupation \$50.00 + all other applicable fees

Commercial Building Permits

- Internal/External Improvements \$100.00
- Structure Conversion \$100.00
- Demolition \$100.00
- Change of Use/Owner/Tenant \$50.00 + all other applicable fees
- New Commercial \$500.00

Water & Sewer Connection Fee

- Water Tap \$9,000.00
- Sewer Tap \$9,000.00
- Improvement \$7,000.00
- 1" Outside Meters (New Homes w/vault installed) \$500.00
- 1" Outside Meters (New homes w/out vault installed) \$2,000.00

_____ *pd ck # 1443*
\$25.00

Total Fees

Submitted by: EWCSouder

Date: 8/26/2022

After completing this form, and providing a plot plan, all applicants must apply for a building permit through the Frederick County Permits Department at 30 North Market Street, Frederick, MD 21702 (excluding fences and sheds under 150 sq. ft.). This information may be mailed to the address above or submitted to the Town of Middletown between the hours of 8:00 AM and 4:00 PM, Monday through Friday at the Middletown Municipal Center.

OFFICE USE ONLY

Plot Plan Drawing
Zoning Application Fee

Received by: [Signature] Date: 8/26/22
Finance Planner: [Signature] Date: 8/26/22
Zoning Adm: _____ Date: _____

Notes: _____

- NOTES: 1. THIS LOCATION/SURVEY IS SOLELY FOR THE USE OF THE PARTY ORDERING AND NOT FOR THE USE OF ANY OTHER PERSONS AND/OR PARTIES WITHOUT PRIOR WRITTEN APPROVAL OF HALLER-BLANCHARD & ASSOCIATES
 2. THIS LOCATION DRAWING WAS PREPARED UNDER THE DIRECT REVIEW AND SUPERVISION OF DAVID L. HALLER, MD. REG. NO. 240
 3. NO TITLE REPORT PROVIDED, THIS LOCATION DRAWING SUBJECT TO ALL EASEMENTS, RIGHTS OF WAY AND NOTES OF RECORD
 4. THIS LOCATION DRAWING IS FOR TITLE PURPOSES ONLY. IT IS FOR USE BY THE TITLE INSURANCE COMPANY AND/OR ITS AGENTS RELATED TO TITLE TRANSFER, FINANCING, ETC.
 5. THIS LOCATION DRAWING DOES NOT ESTABLISH PROPERTY (BOUNDARY) LINES AND DOES NOT GUARANTEE PROPERTY CORNERS
 6. THIS LOCATION DRAWING IS NOT TO BE RELIED ON FOR ESTABLISHMENT OR LOCATION OF FENCES, GARAGES, BUILDINGS OR OTHER EXISTING OR FUTURE IMPROVEMENTS. IT CANNOT BE RELIED UPON FOR ANY TYPE OF CONSTRUCTION
 7. ALL MEASUREMENTS FROM IMPROVEMENTS TO APPARENT PROPERTY (BOUNDARY) LINES OR LINES OF POSSESSION ARE PLUS OR MINUS TWO FOOT OR LESS.

Booked 7/5/2022 11:52 PM, Submission: 7/5/2022 11:52 PM

CASE / FILE NO. 20-30876 BRS

Pool Dimensions:

18'x36'; 648 sq ft

Setbacks to Pool:

Front- 188'

Rear- 53'

Left- 47'

Right- 12'6"

Setbacks to Pool Deck:

Front- 178'

Rear- 47'

Left- 42'

Right- 6'6"

Pool to House: 36'

Pool to Frame Building: 7'

Note: Gravel Drive shown appears to also serve adjoining P.1090.

LOCATION DRAWING
 A.M. VENTRE
 PROPERTY

LIBER 12772 FOLIO 313

MIDDLETOWN

FREDERICK COUNTY, MARYLAND

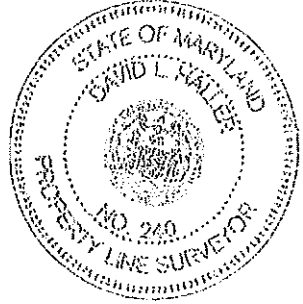
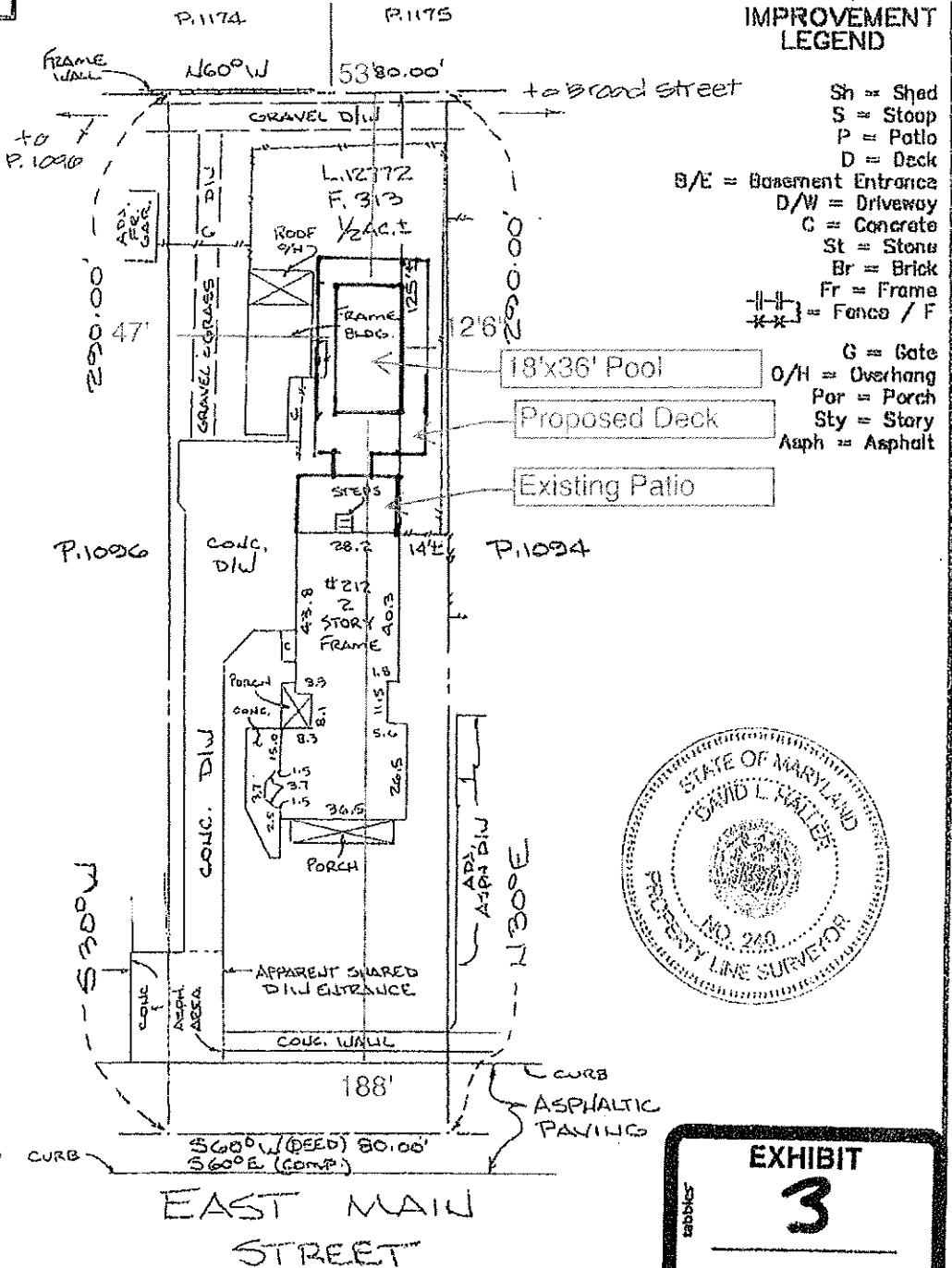


EXHIBIT
3

CERTIFICATE

I HEREBY CERTIFY THAT THE POSITION OF ALL THE EXISTING IMPROVEMENTS ON THE ABOVE DESCRIBED PROPERTY HAS BEEN ESTABLISHED BY A FIELD LOCATION.

David L. Haller

DAVID L. HALLER MARYLAND RPLS NO. 240
 MD. LICENSE EXPIRATION 10-13-21

REFERENCES

PLAT BK	
PLAT NO	
LIBER	12772
FOLIO	313

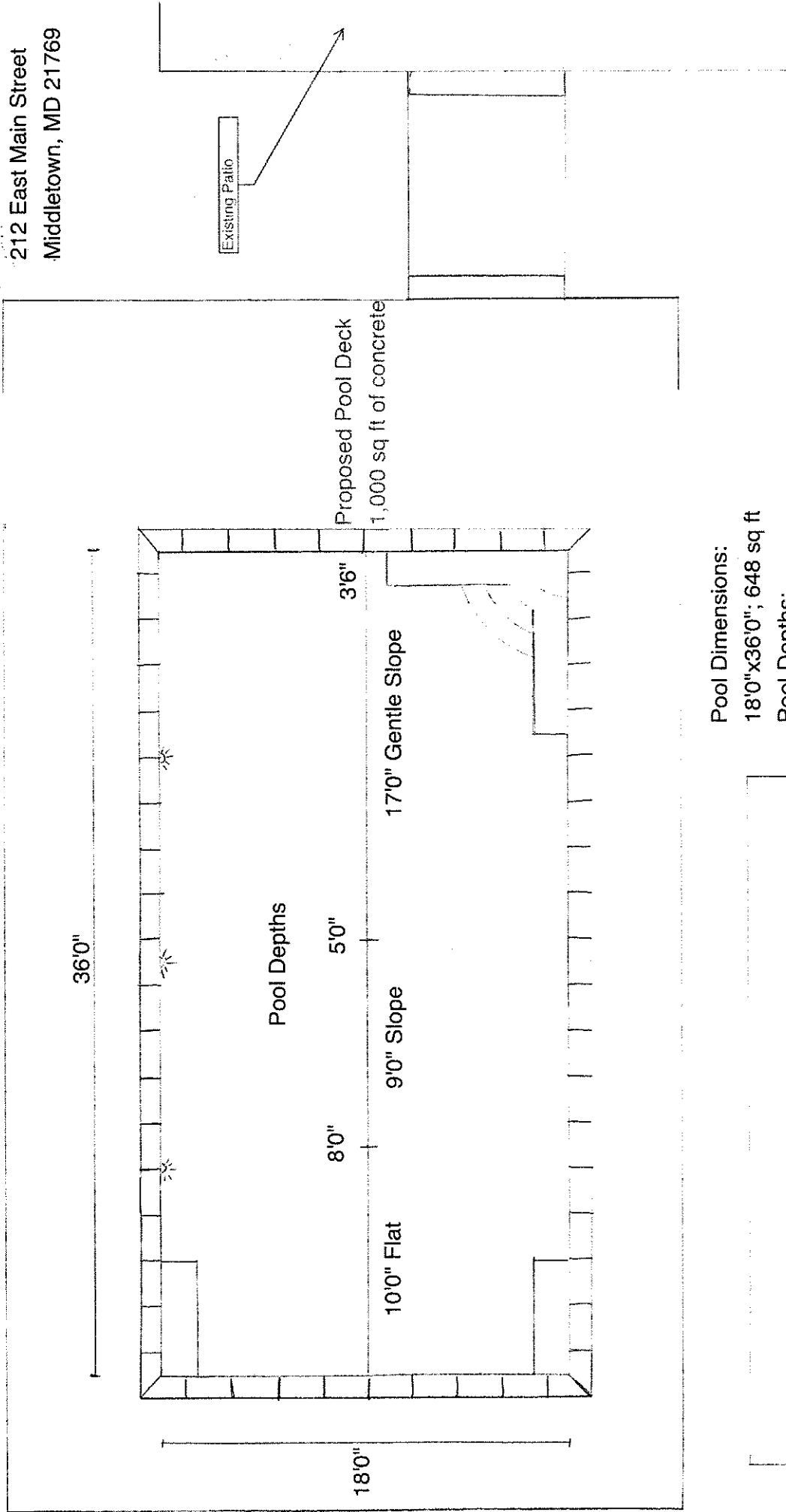
HALLER-BLANCHARD & ASSOCIATES

P.O. BOX 1774
 FREDERICK, MARYLAND 21702
 (301) 846-7788

DATE OF PLANS	SCALE: 1" = 50'
WALL CHECK:	DRAWN BY: WHY
USE LOC: 7-27-20	JOB NO.: 17206
BOUNDARY:	

THIS LOCATION IS VALID FOR 180 DAYS FROM THE DATE OF THIS PLAN AND IS FOR MORTGAGE PURPOSES FOR SOUDER, JR.

Souder Residence
212 East Main Street
Middletown, MD 21769



Pool Dimensions:
18'0"x36'0"; 648 sq ft

Pool Depths:
3'6" to 5'0" to 8'0"

Existing Framed Structure

Scale 1/4" = 1'0"

RECEIVED

Board of Appeals
Town of Middletown, Maryland

26 2022

Date Filed: _____

Map/Grid/Parcel/Lot: _____

Zoned: _____

Town of Middletown

APPEAL FOR VARIANCE UNDER ZONING ORDINANCE

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

Subdivision: _____ Lot: _____ Block: _____

Location: 212 East Main Street Middletown MD 21769

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

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

A. Setbacks

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

The right side of our yard is 12'6" from proposed pool.

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): _____

If exceptional narrowness, shallowness, or shape of the property is claimed, give the date of recording of plot of present subdivision if any: 7/27/20; 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 the attachment

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

n/a

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

[Signature]
Signature of Appellant(s)

212 East Main St. Middletown MD 21769
Address of Appellants

Sworn to and subscribed before me this 9TH Day of SEPTEMBER 20 22

My Commission expires 3/6/24

Phone# 240.345.6158
[Signature]
Notary Public

Our property is long and narrow. In our backyard is a driveway lining the property and a carriage house. This creates an even more narrow space for a pool. The proposed pool is in the shape of a rectangle to accommodate this narrowness. Other shapes and orientations will also hinder the property line. We ask the proposed pool to be allowed given the layout and existing permanent structures. Thank you for your time and consideration.



RECEIVED

AUG 26 2022

Town of Middletown

Paid
Chk #
1443

BURGESS AND COMMISSIONERS OF MIDDLETOWN, MARYLAND

CHECKLIST FOR ADMINISTRATIVE FEE POLICY

PROJECT NAME: Pool - 212 E. Main St.

PLAN NAME: _____

NAME: Elizabeth Souder

ADDRESS: 212 East Main St.

PHONE: 240 315 6158

Please check the following application that applies to you when submitting to the Town of Middletown for review.

BOARD OF APPEALS:

VARIANCE APPLICATION

\$100.00 standard fee for non principal or \$200.00 standard fee for principal + \$100.00 advertising fee, made payable to the Town of Middletown at time of submission of application

SPECIAL EXCEPTION

\$300.00 standard fee + \$100.00 advertising fee, made payable to the Town of Middletown at time of submission of application; for residential purposes (residential uses in the GC district, restricted vehicles in residential districts, fences, and freestanding solar collection systems in residential districts), \$150.00 standard fee + \$100.00 advertising fee

ADMINISTRATIVE ERROR

\$200.00 standard fee + \$100.00 advertising fee, made payable to the Town of Middletown at time of submission of application

WIRELESS TELECOMMUNICATIONS STRUCTURES & FACILITIES:

- NEW TOWER OR SUPPORT STRUCTURE OR SUBSTANTIAL MODIFICATION**
- \$5000.00 standard fee + consultation fees invoiced to the Town, made payable to the Town of Middletown at time of submission of application.**
- ELIGIBLE FACILITY (any co-location or Non-Substantial Modification)**
- \$1000.00 standard fee + consultation fees invoiced to the Town, made payable to the Town of Middletown at time of submission of application.**
- AMENDMENT OR WAIVER REQUEST**
- \$200.00 standard fee + consultation fees invoiced to the Town, made payable to the Town of Middletown at time of submission of application.**
- FINAL INSPECTION**
- \$200.00 standard fee + consultation fees invoiced to the Town, made payable to the Town of Middletown at time of submission of application.**

TEXT AMENDMENT - \$300.00 standard fee + \$200.00 advertising fee + \$200.00 legal fee, made payable to the Town of Middletown at time of submission of application.

RE-ZONING REQUEST - \$400.00 standard + \$20.00/acre + \$200.00 advertising fee made payable to the Town of Middletown at the time of submitting application.

_____ # of acres

ANNEXATION REVIEW - \$1,000.00 standard + \$50.00/acre + \$200.00 legal fee + \$200.00 advertising fee, made payable to the Town of Middletown at the time of submitting application.

_____ # of acres

WATER AND SEWER MASTER PLAN MAP AMENDMENT - \$500.00 standard fee + \$200.00 engineering fee made payable to the Town of Middletown. Applicant must submit a proposed map amendment with fee for consideration of changes to the Water/Sewer Master Plan Map that is not in sequence with the regular six-month review process for change in services.

RECORDING FEES:

- PLATS - \$5.00 per sheet made payable to the Clerk of the Court and \$75.00 made payable to the Town of Middletown for recordation procedures conducted by Middletown Planning Staff.**

- ALL OTHER DOCUMENTS - \$50.00/document payable to the Town of Middletown for recordation procedures conducted by Middletown Staff.**

- PUBLIC WORKS AGREEMENT REVIEW - \$225.00/each standard fee + \$200.00 legal fee made payable to the Town of Middletown when submitting public works agreement for review.**

- HOA DOCUMENT REVIEW - \$225.00 standard fee + \$200.00 legal fee made payable to the Town of Middletown when submitting HOA for review.**

- HOME OCCUPATION REVIEW - \$50.00 standard fee + all other applicable fees payable to the Town of Middletown when submitting Home Occupation application for review.**

TOTAL FEES ENCLOSED \$ 300.00 (AA)

SIGNED BY: *SWC Sander*

AFFIDAVIT IN COMPLIANCE WITH TOWN OF MIDDLETOWN
ZONING ORDINANCE – SECTION 10.6

TOWN OF MIDDLETOWN
Frederick County, Maryland, TO WIT:

CASE NO. MT-B-22-4

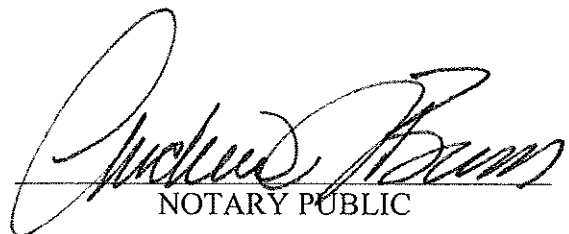
On this 9th day of September, 2022 before me the subscriber, a
Notary Public of the State of Maryland and Frederick County, personally appeared
Elizabeth Souder and made oath in due form of law as
follows:

That I posted at least ten (10) days prior to the hearing scheduled for
September 27, 2022 on the above captioned case, those sign(s) received from the
(Hearing Date)
Town of Middletown (Planning and Zoning Office), and that said sign(s) were erected on the
subject property in accordance with the required distances and positioning as identified in the
above referenced Ordinance.

EWCSouder

Subscribed and sworn to before me the day and year identified above.

SEAL


NOTARY PUBLIC

My Commission expires: 3/6/24

SIGN REQUIREMENTS FOR:

Board of Appeals Public Hearings

The premises MUST be posted in accordance with the following rules:

1. Placard must be posted a minimum of ten (10) days prior to the public hearing date.
2. Placard must be placed on the property within ten (10) feet of the property line, which abuts the most traveled public road.
3. Placard must be posted in a conspicuous manner, not over six (6) feet above the ground and affixed to a sturdy frame where it will be clearly visible and legible to the public.
4. Placard shall be maintained at all times by the Applicant until after the public hearing. If a new placard is needed or required, please contact the Town of Middletown (Planning and Zoning Office) at 301-371-6171.
5. An affidavit certifying the posting of the required placard must also be on file on the day the property is posted.
6. Proper posting of the placard will be spot checked by the Zoning Administrator and if not in compliance, IT MAY RESULT IN RE-SCHEDULING OF THE PUBLIC HEARING.



MIDDLETOWN BOARD OF APPEALS
Middletown, Maryland 21769
Meeting Minutes for August 30, 2022
Case # MT-B-22-3

The Middletown Board of Appeals (BOA) met on Tuesday, August 30, 2022, at 7:00 p.m. Present were BOA members Daphne Gabb (Chairwoman), Alex Kundrick, Jonathan Minchoff, Drew Bowen (Town Administrator) and Jen Rhinaman (recording secretary).

Others present: Rodney O'Neal

Minutes – Chairwoman Gabb asked if there were any corrections to the June 28, 2022, BOA meeting minutes as submitted. Board member Jonathan Minchoff motioned to approve the minutes and Board member Alex Kundrick seconded the motion.

Case MT-B-22-3 – 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 .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.

Action: Motion by Board member Minchoff to approve the variance of approximately 15' from the 18' rear yard setback to construct a swimming pool. Seconded by Board member Kundrick. Motion carried (3-0).

The meeting adjourned at 7:07 p.m.

Respectfully submitted,

Jen Rhinaman
Town Receptionist