

VARIANCE CASE NO. 001-16
OFFICIAL DECISION
BOARD OF APPEALS
TOWN OF POOLESVILLE, MARYLAND

Applicant: Jason Brenchley
17723 Doctor Walling Road
Poolesville, Maryland 20837
APPLICANT

Request: To grant a variance to allow the construction of a detached garage in the side yard of the property located in the R-1/2 zone under the Zoning Code of the Town of Poolesville.

Location: 17723 Doctor Walling Road
Poolesville, Maryland

An application was filed by Jason Brenchley, the owner of the subject parcel at 17723 Doctor Walling Road, Poolesville for a variance from the restriction on allowing an accessory structure in the side yard of a parcel, pursuant to the Zoning Code of the Town of Poolesville.

The Board of Appeals held a public hearing on June 1, 2016 at 7 p.m. on the application, and based on the record, in compliance with the State Open Meetings Act, the Board granted the request as set forth in the written Official Decision of the Board.

Notice of the date, time and place of the hearing on the consideration of the variance request was sent to contiguous property owners and published in the appropriate newspaper of general circulation. Sitting for the Board were Chairwoman Pilar Garrett, Ralph Hitchens and Patricia Wolford.

SUMMARY

At the public hearing on this application, the Chairwoman read the contents of the official file into the record of this matter and then called upon the Applicant to present his case. Mr. Brenchley gave a PowerPoint presentation outlining his request and explained that he wishes to construct a detached garage on the side of his property because the rear portion of his property does not provide a suitable site. The rear area is not flat, is forested, and has a “dry creek” which with any rain becomes a wet one, thus this situation provides the requisite hardship to allow the grant of a variance.

Mr. Brenchley showed slides of his proposed garage and indicated he is going to tie the look of the garage to his house via siding and roof color. He stated the application shows the dimensions of his intended building. He further indicated that he has the support of his neighbors and that the garage itself will be shielded from view from the sides and partially from the front.

When asked if the property was subject to homeowner’s association covenants and restrictions the Applicant indicated that he was not aware of any such restrictions.

The Applicant ended his testimony citing the minutes to the Poolesville Planning Commission meeting wherein this application was discussed and approval was recommended.

No one from the public was present to testify nor was additional written public testimony received.

After reviewing all of the information submitted and the testimony presented, the Board voted 3-0 to grant a variance to allow the construction of the proposed garage, as outlined in the application, presentation and testimony, in the side yard area of the

property, but specifically noted that such approval does not supersede or nullify any covenants and restrictions which may exist on the property.

FINDING OF FACT

The Board of Appeals met in public session, pursuant to the requirements of the Maryland Open Meetings Act, to deliberate upon the application immediately following the public hearing. In considering the criteria for granting a variance contained in Section 10 (D)(3) and Section 8 (F) of the Zoning Code, the Board deliberated on the testimony and evidence presented. The Board members each expressed their position on the proposed variance.

The Board finds that the slope, forest and wetland features in the rear of the Applicant's lot does create a circumstance which would make it difficult to construction a building in that location and creates a hardship on the Applicant. The Board finds that the Applicant has met the burden of proof as required under the requirements of the Zoning Code for the granting of a variance. The application, testimony, and evidence comprising the record of this case are hereby included by reference in this decision.

Mr. Hitchens made a motion to grant the requested variance to the construction of the proposed garage, as outlined in the application, presentation and testimony, in the side yard area of the property, but specifically noted that such variance does not supersede or nullify any covenants and restrictions which may exist on the property.

The motion was seconded by Ms. Wolford and upon a vote by the Board the decision was three (3) in favor of the motion and zero (0) opposed.

RESOLUTION

The Board is bound by the provisions of Section 10 (D)(3) X of the Zoning Ordinance of the Town of Poolesville, Maryland relative to the granting of a variance. This Board finds that the criteria necessary for granting a variance has been met. In accordance with the findings of fact, testimony and record of this case, and based on the applicable law and reasoning expressed herein, the Board of Appeals of the Town of Poolesville, Maryland, grants by the Resolution contained hereafter, by a decision of 3-0.

BE IT RESOLVED by the Board of Appeals for the Town of Poolesville, Maryland that the Opinion stated above be adopted as the Resolution required by law as its decision in the above-entitled matter.

The foregoing Resolution was approved on June 1, 2016 by unanimous vote.

Pilar Garrett, Chairwoman