

VARIANCE CASE NO. 001-23
OFFICIAL DECISION
BOARD OF ZONING APPEALS
TOWN OF POOLESVILLE, MARYLAND

Applicant: Holly Ridge Development, LLC
15115 Ganley Road
Boys, Maryland 20841
APPLICANT

Owner: JDC Poolesville, LLC
1760 Reston Pkwy, Suite 210
Reston, VA 20190

J.P. Property Investments, LLC
16031 Industrial Drive
Gaithersburg, MD 20877

Request: To grant a variance for the maximum building height of up to thirty-six (36”) inches measured from grade immediately in front of the unit to the drywall ceiling on the third level.

Location: Parcel G (tax acct 03239802; Parcel F (tax acct 03439790)
Corner of Fisher Avenue and Wootton Avenue, Poolesville

An application was filed by Holly Ridge Development, LLC, the developer of the subject property, for a variance to the maximum building height of up to thirty-six (36”) inches measured from the grade immediately in front of the unit to the drywall ceiling on the third level.

The Board of Zoning Appeals held a public hearing on August 15, 2023 at 7 p.m. on the application. Based on the record and 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 Chairperson Pilar Garrett, Russell Jones, 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 Assistant Town Manager to present the staff report on the matter. Niles Anderegg, the Assistant Town Manager, outlined the Applicant's request; the layout of the subject lot; and the need for a variance. He stated that due to the location and the character of the surrounding neighborhood and the changes in the materials and design of the contemporary construction which are not addressed in the Code of the Town of Poolesville, it creates a hardship for this Applicant. Mr. Anderegg stated that the proposal is in keeping with the character of the neighborhood.

Mr. Anderegg outlined the criteria needed for the grant of a variance under the statute indicating that the Applicant meets all of these criteria. The request does not create an adverse effect to the neighborhood; the property does have specific unique conditions; there is a hardship on the property owner; and the intent of the zoning ordinance will still be met.

Finally, Mr. Anderegg indicated that the Application was reviewed by the Planning Commission and that body recommended approval thereof.

The Chairwoman then called upon the Applicant to present any additional information. Mr. Brian Afnan gave additional background and factual information consistent with the Application and staff report.

After reviewing all of the information submitted and the testimony presented, the Board deliberated on the matter. Board members stated that the proposed construction would not cause an impact to the neighborhood and the granting of the variance would assist in keeping the new construction consistent with the street view and heights of the surrounding neighborhood. Board Member Wolford made a motion to grant the requested variance as detailed in the Staff Report dated August 2, 2023. Board Member Jones seconded the motion. The motion carried 3-0.

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 findings are contained in this Opinion above. 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.

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 August 15, 2023 by unanimous vote.

Pilar Garrett, Chairperson