

**VARIANCE CASE NO. 001-21**  
**OFFICIAL DECISION**  
**BOARD OF ZONING APPEALS**  
**TOWN OF POOLESVILLE, MARYLAND**  
\*\*\*\*\*

Applicant: Yahia Agarib  
17301 Hughes Road  
Poolesville, Maryland 20837  
APPLICANT

Request: To grant a variance of 1.13 feet to the side setback requirement for the construction of a patio enclosure.

Location: 17301 Hughes Road, Poolesville, Maryland

An application was filed by Yahia Agarib, the owner of the subject property, for a variance to the side setback requirement in the amount of 1.13 feet to allow the construction of a patio enclosure.

The Board of Zoning Appeals held a public hearing on November 10, 2022 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, Patricia Wolford, Ralph Hitchens and Laura Eckert.

## 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 procedural history of this case; the Applicant's request; the layout of the subject lot; and the need for a variance. He stated that due to the lot configuration and that it is a corner lot, it creates a hardship for this Applicant as in essence there is no rear yard and two front yards – thus the need for a minor variance to enclose an existing patio. Mr. Anderegg stated that the proposed construction will not add to the impervious surface of the lot and is in keeping the character of the neighborhood.

Mr. Anderegg outlined the criteria need for the grant of a variance under the statute indicating that the Applicant meets all of these criteria. The request does not create and 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. Agarib gave additional background and factual information consistent with the Application and staff report.

A member of the public, Jerome Klobukowski, was present to offer testimony in this matter indicating that he was a neighbor and had no objection to the request so long as it met all permit requirements.

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. Board Member Wolford made a motion to grant the requested variance. Board Member Hitchens seconded the motion. The motion carried 5-0.

#### **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 5-0.

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 November 10, 2022 by unanimous vote.

  
Pilar Garrett, Chairperson