



MINUTES OF THE OCTOBER 4, 2022 BOARD OF ZONING APPEALS MEETING

I. Opening of Meeting

Chair Weeks opened the Clayton Board of Zoning Appeals meeting that convened at 7:00 PM on Tuesday, October 4, 2022.

II. Members in Attendance

Ms. Jennifer Weeks, Mr. McGuinness, and Ms. Jessica Hunter
Mr. Seth Dorman, City Planner/Zoning Administrator

Ms. Weeks advised Ms. Buyers and Mr. Madewell are not able to attend this evening and asked for a motion to excuse both this evening. Mr. McGuinness made a motion to excuse Ms. Buyers and Mr. Madewell this evening, motion was seconded by Ms. Hunter. Voting: Ms. Weeks-yes, Mr. McGuinness-yes, and Ms. Hunter-yes. Motion passed 3-0.

III. Meeting Procedure and Oath

Ms. Weeks explained the meeting procedures and administered the Oath to members of the public who wish to speak on an agenda item this evening.

IV. Minutes of the Previous Meetings

None this evening.

V. New Business

VAR22-11

Ms. Weeks introduced Case VAR22-11, a request for a variance to maximum area for a proposed detached accessory structure at 6350 Union Road. Application was made by Terry Parsons (property owner)

Mr. Dorman, City Planner, advised this application was submitted by the applicant on September 12, 2022. Subject of this request is a proposed detached garage that requires a variance from the maximum area requirement. The property is located at 6350 Union Road, the parcel ID is M601 03208 0037, and the overall area is 1.33 acres. Zoning for this property is RSD (Residential Single-Unit District). The public notice was printed in the Brookville Star on September 21, 2022, and letters mailed to property owners within 300' of the applicant's property also on September 21, 2022. Dorman showed an aerial image of the property and surrounding area. Applicant is proposing to construct a detached garage structure with lean-to overhang on the side; the dimensions are 30 feet by 50 feet (or 1,500 square feet) with an overall height of 12 feet. The proposed area, 1,500 square feet, is what is triggering the variance. By code, the applicant would be permitted a detached structure up to 1,426 square feet based on the area of the applicant's rear yard. The applicant already has a detached garage of approximately 965 square feet in area but is proposing to connect the house with the existing detached garage with a porch type structure in order to minimize the variances needed for the

proposed detached garage structure. The applicant also has an existing shed with an area of approximately 150 square feet, but with the existing detached garage being connected to the house, the applicant can have both the existing shed and the proposed detached garage as his two permitted accessory structures. Dorman shared an image of the site plan, showing the proposed location of the new structure. After review and consideration of the variance application, Staff recommends the Board approve the variance requested to allow the applicant to construct a detached garage with an area of 1,500 square feet in lieu of the 1,426 square feet that the Planning and Zoning Code would permit based on the size of the applicant's rear yard with the following condition: the existing detached garage be connected to the house (primary structure) as indicated in the application so that the existing detached garage becomes part of the primary structure

Ms. Weeks asked the board members if they had any questions for Mr. Dorman.

Mr. McGuinness asked Mr. Dorman if he received any replies from the legal ad or letters sent to surrounding residents.

Mr. Dorman replied he has received no comments.

Ms. Weeks asked the applicant if they had anything to add.

Terry Parsons stated Mr. Dorman identified three properties in my neighborhood that have outbuildings that are larger than what's allowed. The building I'm proposing is 2 ½ feet longer and that is causing the variance. It's a very nice building that won't affect my neighbors. I've spoken with two neighbors and they have no issues.

Mr. McGuinness your building will be 1,500 square feet, I understand with the size of your property, what is your total acreage?

Mr. Parsons stated it's 1.33 acres with most of my property being the back yard.

Mr. McGuinness asked if he was planning on putting in a driveway.

Mr. Parsons stated no. I will be putting in a gate on my fence, but I am not planning on putting in a driveway. The building will be used as a workshop, and the lean-to on the side will be used for my grill and to have people over for cookouts.

Ms. Weeks asked how will the existing garage attached to the house.

Mr. Parson shared a picture and the plans of how the existing garage will be attached to the house.

Ms. Weeks asked for a motion to open the meeting for public comment. Motion by Ms. Hunter to open the meeting for public comments, motion was seconded by Mr. McGuinness. All yeas, motion carried 3-0.

Ms. Weeks asked if any comments have been received for this case.

Mr. Dorman stated none have been received.

Hearing no comments Ms. Weeks asked for a motion to close the meeting for public comment. Motion by Ms. Hunter to close the meeting for public comments, motion was seconded by Mr. McGuinness. All yeas, motion carried.

Ms. Weeks asked the board if they had any further comments.

Findings of Facts:

Ms. Weeks read the findings of facts and after discussion Ms. Weeks stated this case meets the standards for this variance request with the condition recommended by Mr. Dorman. Ms. Weeks then asked for a motion on this Variance.

Ms. Hunter made a motion to grant VAR22-11 for 6350 Union Road with the condition that the existing detached garage be connected to the house as indicated in the application so that the existing detached garage becomes part of the primary structure, motion second by Mr. McGuinness. Voting: Ms. Weeks-yes, Mr. McGuinness-yes, and Ms. Hunter-yes. Motion passed 3-0.

VAR22-12

Ms. Weeks introduced Case VAR22-12, a request for a variance to allow an automatic pool cover in lieu of fence and lockable gate at 211 E. Salem Street. The request was made by Chris Curtis (property owner)

Dorman advised this application was submitted by the applicant on September 12, 2022. The request is for an automatic pool cover for an in-ground pool that is proposed behind the applicant's house; this requires a variance from the requirement for a minimum 5' tall fence with lockable gate. The property is located at 211 E. Salem Street, parcel ID M60 00215 0040 that has an area of 6.94 acres. The zoning for this property is RSD (Residential Single-Unit District). A public notice was printed in the Brookville Star on September 21, 2022, and letters mailed to property owners within 300 feet of the applicant's property also on September 21, 2022. Dorman then showed an aerial image of the property and surrounding area. The applicant's contractor submitted a Zoning Certificate application for an in-ground pool on September 26, 2022 but is waiting on the results of tonight's hearing before completing their submittal. The proposed pool will be 16 feet wide and 40 feet long in the rear yard; the pool will be installed at an angle to the house, and the closest corner of the pool will be 40 feet from the closest corner of the house. The property line setbacks from the closest corner of the proposed pool will be approximately 120 feet from the west, 225 feet from the east, and 300 feet from the north property lines. The lot is heavily vegetated and wooded, especially along the west and north property lines. After review and consideration of the variance application, we recommend the Board approve the variance request to allow an automatic pool cover in lieu of the required minimum height 5 foot fence and lockable gate, with the following conditions: the automatic pool cover installed must meet the safety specifications of ASTM F1346-91; and the automatic pool cover always be closed when the swimming pool is not in use by the property owner.

Ms. Weeks asked the board members if they had any questions for Mr. Dorman.

Mr. McGuinness asked when you were speaking did you mention there's a proposed structure, maybe a pool building or some sort of structure near the pool.

Mr. Dorman stated nothing with regards to a pool house. This would be an open, kind of roof shelter, not enclosed with a seating area next to the pool.

Mr. McGuinness asked if that would be considered an accessory structure.

Mr. Dorman advised it would still be compliant because there's only one other accessory structure and that's the garage. The proposed structure would need to be evaluated once an application is submitted and it would be considered the second structure as pools are not considered an accessory structure.

Ms. Hunter stated I believe you covered this in your presentation, but to be absolutely clear you can't see the proposed location of the pool from the road or from any neighboring houses or the Janice Ward Center.

Mr. Dorman stated no from any of the views that I saw, it sits far off the road, and the neighboring properties are well screened,

Ms. Weeks asked the applicant if they had anything to add.

Chris Curtis advised his property sits a quarter of a mile off the road and is screened on all four sides. The outdoor pavilion is not currently being planned, perhaps a year from now or later down the road. The pool cover is a safety issue with the grandkids. I've talked with surrounding neighbors, no one has an issue.

Ms. Weeks asked for a motion to open the meeting for public comment. Motion by Mr. McGuinness to open the meeting for public comments, motion was seconded by Ms. Hunter. All yeas, motion carried.

Ms. Weeks asked if we were contacted by any of the neighbors.

Mr. Dorman stated he only heard from one neighbor, Matt Heck, who has no issue with the request.

Hearing no comments Ms. Weeks asked for a motion to close the meeting for public comment. Motion by Mr. McGuinness to close the meeting for public comments, motion was seconded by Ms. Hunter. All yeas, motion carried.

Ms. Weeks asked the board if they had any further comments.

Mr. McGuinness advised this request is consistent with the swimming pool covers we have approved in regards to the size of the lot. This lot is slightly under seven acres and is heavily wooded and heavily protected. I know in the past we've talked about that to make sure that the pools have had proper screening.

Ms. Weeks stated I would echo that. This is one of the bigger lots and has a lot of screening, and it's not seen from the road or other properties, in this case I agree.

Findings of Facts:

Ms. Weeks read the findings of facts and after discussion Ms. Weeks stated this case meets the standards for this variance request with the conditions recommended by Mr. Dorman. Ms. Weeks then asked for a motion on this Variance.


Ms. Hunter made a motion to grant variance VAR22-12 for 211 E. Salem Street with the following conditions: the automatic pool cover installed must meet the safety specifications of ASTM F1346-91; and the automatic pool cover always be closed when the swimming pool is not in use by the property owner. Motion was second by Mr. McGuinness. Voting: Ms. Weeks-yes, Mr. McGuinness-yes, and Ms. Hunter-yes. Motion passed 3-0.

VI. Next Meeting

Mr. Dorman stated we do not have any agenda items for our November 1st meeting date at this time, but I will update you later this month.

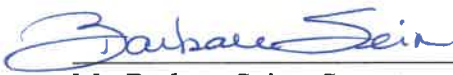
VII. End of Meeting

There being no other business to come before the Board, Mr. McGuinness moved to adjourn the meeting and Ms. Hunter seconded the motion. Voting: Ms. Weeks-yes, Mr. McGuinness-yes, and Ms. Hunter-yes. Motion passed 3-0. Meeting adjourned at 7:50 PM.



Ms. Jennifer Weeks, *Chair*
11/8/22

Date



Ms. Barbara Seim, *Secretary*
NOV-8, 2022

Date