

IN THE MATTER OF * BEFORE THE CECIL COUNTY
THE APPLICATION OF * BOARD OF APPEALS
CECIL WOODS PARTNERS * CASE NO.: 3631
*
(Variance) *

* * * * *

OPINION

The Cecil County Board of Zoning Appeals (the “Board”) is now asked to consider the application of Cecil Woods Partners (the “Applicant”). Applicant seeks a variance from side yard setback requirements at property located at 10 Halsey Court, Elkton, Maryland 21921, designated as Parcel 295 on Tax Map 25, in the Fifth Election District of Cecil County (the “Property”). The Property is in an area zoned Manufactured Home (“MH”) and is owned by Cecil Woods Partners/Village of Cecil Woods.

Under the provisions of Article XVII, Part I, Section 306, Paragraph 1, variances, as defined in Article II, may be granted by the Board of Appeals. Paragraph 2 of Section 306 requires the Board to examine all facts of the case and render a decision based upon the following criteria:

A. The variance requested is based upon a situation where, because of special circumstances, a literal enforcement of the provisions of the Ordinance would deprive the applicant of a right commonly enjoyed by other parties in the same zone under the terms of this Ordinance.

B. Special conditions and circumstances exist that are peculiar to the land, buildings, or structures involved, and that are not applicable to other lands, buildings, or structures in the same zone, such conditions and circumstances not being the result of actions by the applicant.

C. The granting of the variance will not confer upon the applicant any special privileges that are denied by this Ordinance to other properties in the same zone.

D. The variance request does not arise from any condition to land or building use, either permitted or non-conforming, on any neighborhood property.

Applicant appeared on behalf of the owner of the Property and requested the variance in order to build a deck on the Property. The Applicant testified that the proposed deck would encroach upon the 10' setback requirement. He further stated that the proposed deck would be 9-10' from the property line and would be approximately 20' from the nearest dwelling. Applicant requested a 2' setback variance in order to construct the deck.

No one appeared in opposition to or in favor of the application.

From the evidence presented the Board is satisfied that the criteria set forth in Section 306 has been met, and makes the following findings:

1. The variance request is based upon a situation where, because of special circumstances, a literal enforcement of the provisions of the Ordinance would deprive the applicant of a right commonly enjoyed by other parties in the same zone under the terms of this Ordinance. Although the Property is of sufficient size, the dimensions of the Property along with the position of the property line render Applicant unable to construct a deck on the property without a variance from the yard setback requirement. Other properties of the size of the Parcel are able to construct decks in the manner proposed by the Applicant and without a variance Applicant will not be able to move forward with construction of the deck.

2. Special conditions and circumstances exist that are peculiar to the subject land, buildings or structures involved and that are not applicable to other lands, buildings, or structures in


the same zone. Due to the position of the dwelling on the parcel and the distance to the property line the deck cannot be constructed without the requested yard setback variance.

3. The granting of the variance will not confer upon the applicant special privileges that are denied by this Ordinance to other properties in the same zone. Other owners of parcels of equal size to the Property are able to construct decks on their property in the manner proposed by Applicant.

4. There is no evidence that the variance request arises from any condition to land or building use, either permitted or non-conforming, on any neighborhood property.

For the reasons stated, by unanimous vote, the Board is satisfied that the criteria set forth in Section 306 have been met, and the application is therefore **APPROVED**.

4/23/13
Date


Mark Saunders, Acting Chairperson

TRUE COPY

John F. Dempsey 4/24/13

BOARD OF APPEALS APPLICATION
CECIL COUNTY, MARYLAND

MEET. MONTH: March 2013
FILE NO. 3631

THIS REQUEST IS FOR:
SPECIAL EXCEPTION RENEWAL ()
SPECIAL EXCEPTION ()
VARIANCE ()
APPEAL ()

DATE FILED: 2-15-13
AMOUNT PD: Waived
ACCEPTED BY: J. Demary

Received
FEB. 15 2013
County Office
J & Zoning

A. APPLICANT INFORMATION

Cecil Woods PARTNER
APPLICANT NAME - PLEASE PRINT CLEARLY
1801 W Pulaski Hwy ELKTON Md 21921
ADDRESS CITY STATE ZIP CODE
[Signature] 410-287-0700
APPLICANT SIGNATURE PHONE NUMBER

B. PROPERTY OWNER INFORMATION

Cecil Woods Partners/Village of Cecil Woods
PROPERTY OWNER NAME - PLEASE PRINT CLEARLY
1801 W Pulaski Hwy ELKTON Md 21921
ADDRESS CITY STATE ZIP CODE
[Signature] 410-287-0700
PROPERTY OWNER SIGNATURE PHONE NUMBER

C. PROPERTY INFORMATION

10 Halsey Court ELKTON Md 21921 05 013933
PROPERTY ADDRESS ELECTION DIST. ACCT. NUMBER
0025 18 295 159 .1809± MH
TAX MAP # BLOCK PARCEL LOT # #ACRES ZONE

D. PURPOSE OF APPLICATION - Indicate reasons why this application should be granted. (attach separate sheet if necessary)

WE wish to add a 10'x12' deck ON the Rear of this home. THE deck would be outside the building ENVELOPE but within the lot lines. It would be beside the GARAGE of the adjoining home with 10' SEPERATION at the closest point & 10' SEPERATION FROM the home. 10' side yard setback 31'

E. On an attached sheet, PLEASE submit a sketch of the property indicating the proposed project. Show distances from the front, side and rear property lines and the dimensions of the project.

F. LAND USE DESIGNATION

Is property in the Critical Area? YES X NO
If yes, Pertinent provision of the Chesapeake Bay Critical Area Program: _____
Is property in the 100 year Floodplain? YES X NO
Is property an Agricultural Preservation District? YES X NO

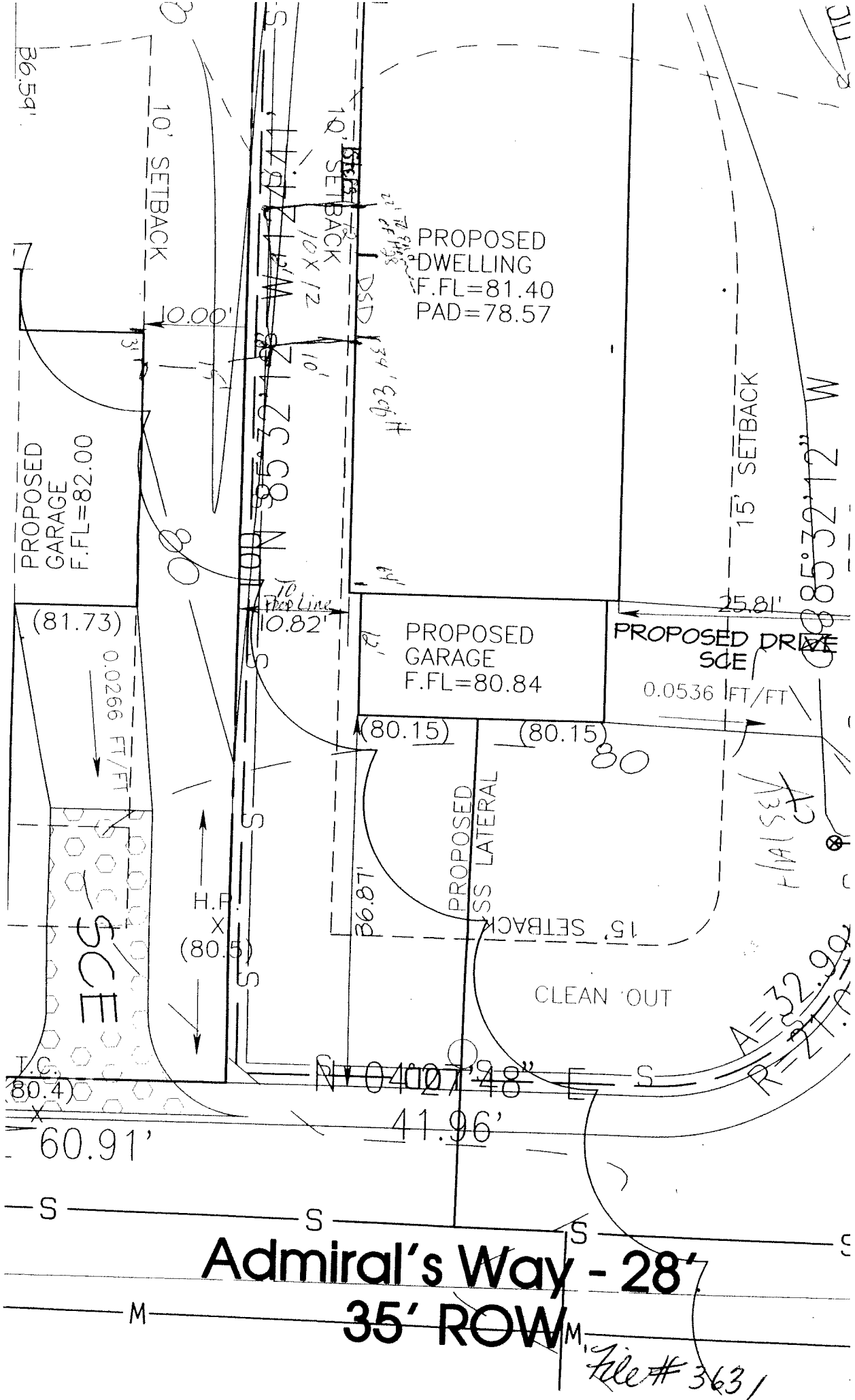
If property is located in the Critical Area, all provisions and requirements must be met as outlined in Article XVII, Part I, II & III of the Zoning Ordinance.

G. PROVISION OF ZONING ORDINANCE: Section 306

H. SPECIAL EXCEPTION RENEWAL - PREVIOUS FILE NO. & CONDITIONS FOR APPROVAL: N/A

I. SPECIAL EXCEPTION FOR A MANUFACTURED HOME - Please fill out the following information:

Will unit be visible from the road? If yes, distance: _____
Will unit be visible from adjoining properties? If yes, distance: _____
Distance to nearest manufactured home: _____ Size/Model/Year of Unit: _____
Number of units on property at present time: _____



Admiral's Way - 28'

35' ROW

File # 3631