

IN THE MATTER OF
THE APPLICATION OF
LINDA PEARCE

(Variance)

* BEFORE THE CECIL COUNTY
* BOARD OF APPEALS
* CASE NO.: 3660
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OPINION

The Cecil County Board of Zoning Appeals (the "Board") is now asked to consider the application of Linda Pearce (the "Applicant"). Applicant seeks a five foot side yard setback variance in order to construct a shed on property owned by Applicant located at 161 Avalon Drive, Elkton, Maryland 21921, designated as Parcel 164, Parcel 807, Block 13 on Tax Map 21, in the Third Election District of Cecil County (the "Property"). The Property is in an area zoned Suburban Transition Residential ("ST").

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 testified that wishes to construct a sixteen by twenty-four foot shed on her Property. The Property already contains a forty by twenty foot in-ground pool. Because of the location of the pool on the Property, the only place the shed could be constructed would require a variance from the side yard setback requirements. Applicant testified that she discussed the shed with the owner of the neighboring property on the side of the Property where the shed would go and there was no objection.

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 to accommodate the shed, because of the way the pool is situated on the lot the Applicant is unable to construct the shed without a variance. Other properties of the size of the Parcel are able to construct similar sheds; however, without a variance, the Applicant will be unable to do so.

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 existing pool on the Parcel, Applicant is unable to construct a shed without a 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 properties similar in size and dimension to the Property are able to construct sheds 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**.

10/29/2013
Date

David Willis, d.
David Willis, Chairperson

BOARD OF APPEALS APPLICATION
CECIL COUNTY, MARYLAND

MEET. MONTH: Sept 2013
 FILE NO. 3660

THIS REQUEST IS FOR:

- SPECIAL EXCEPTION RENEWAL ()
 SPECIAL EXCEPTION ()
 VARIANCE (✓)
 APPEAL ()

DATE FILED: 8/15/13
 AMOUNT PD: \$200.00
 ACCEPTED BY: CTH

A. APPLICANT INFORMATION

LINDA PEARCE
 APPLICANT NAME - PLEASE PRINT CLEARLY
161 AVALON AVE ELKTON MD 21921
 ADDRESS CITY STATE ZIP CODE
Linda Pearce
 APPLICANT SIGNATURE PHONE NUMBER

CK # 8030
 Julian Lee Clark

B. PROPERTY OWNER INFORMATION

LINDA PEARCE
 PROPERTY OWNER NAME - PLEASE PRINT CLEARLY
161 AVALON AVE ELKTON MD 21921
 ADDRESS CITY STATE ZIP CODE
Linda Pearce
 PROPERTY OWNER SIGNATURE PHONE NUMBER 443-309-1421

C. PROPERTY INFORMATION

161 AVALON AVE 3rd 3-068463
 PROPERTY ADDRESS ELECTION DIST. ACCT. NUMBER
21 13 807 164 .368 ST
 TAX MAP # BLOCK PARCEL LOT # #ACRES ZONE

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

57' Side yard set BACK variance.

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

100'-0"

5'-0"

Boundary's
Structure 1

Face

Existing Pool

Proposed
Shed

26'-0"
16'-0"

24'-0"

Proposed
Concrete Pad

26'-0"

Existing Dwelling

160'-0"

Face

Face

16'-4"

16'-4"

Location Plan
For
Linda P. Clark
161 Avalon Avenue
Lot 164/ Manchester Park Sec. VII - 8 Plat 1
3rd Election Dist. Cecil Co., Maryland

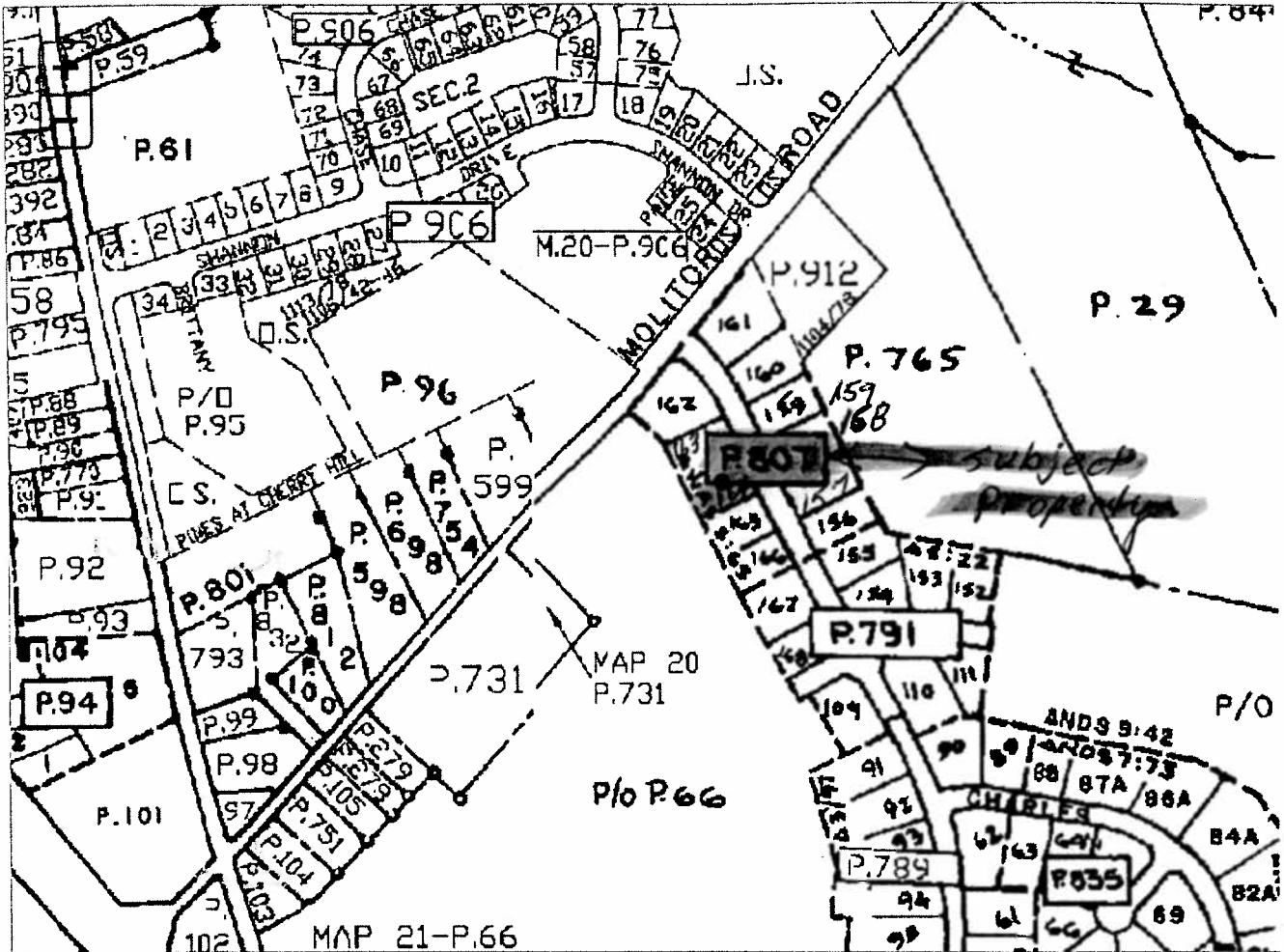
B.P. 1

45'-0"

Cecil County

New Search (<http://sdat.resiusa.org/RealProperty>)

District: **03** Account Number: **068463**



The information shown on this map has been compiled from deed descriptions and plats and is not a property survey. The map should not be used for legal descriptions. Users noting errors are urged to notify the Maryland Department of Planning Mapping, 301 W. Preston Street, Baltimore MD 21201.

If a plat for a property is needed, contact the local Land Records office where the property is located. Plats are also available online through the Maryland State Archives at www.plats.net (<http://www.plats.net>).

Property maps provided courtesy of the Maryland Department of Planning ©2011.

For more information on electronic mapping applications, visit the Maryland Department of Planning web site at www.mdp.state.md.us/OurProducts/OurProducts.shtml (<http://www.mdp.state.md.us/OurProducts/OurProducts.shtml>)



(<http://lmsweb05.mdp.state.md.us/website/mosp/>)

File # 3669

Linda Pearson

map 21 / paul 807

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