

IN THE MATTER OF	*	BEFORE THE CECIL COUNTY
THE APPLICATION OF	*	BOARD OF APPEALS
Paul R. Rodgers	*	CASE NO.: 3940
(Variance)	*	
* * * * *	*	

OPINION

The Cecil County Board of Zoning Appeals (the “Board”) is now asked to consider the application of Paul R. Rodgers (the “Applicant”). Applicant seeks a variance from the side-yard setback requirement at property located at 26 Ground Pine Path, Elkton, Maryland 21921, designated as Parcel 435, Lot 34 on Tax Map 42 in the Fifth Election District of Cecil County (the “Property”). The Property is in an area zoned Low Density Residential (“LDR”) and is owned by the Applicant and Samona Francis Rodgers.

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 and testified that he seeks a 5 foot variance from the side yard setback requirement in order to construct a deck on the rear of his residence. Applicant testified that the deck will be 12 by 24 feet and that in order for it to remain centered and symmetrical with the house, the corner of the deck would encroach 5 feet in to the side yard setback, due to the proximity of the house itself to the property line.

No one appeared in favor of or opposed to 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 and the location of the house render Applicant unable to construct a deck on the property without a variance from the side-yard setback requirements. Other properties of the size of the Property 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 location of the property lines, the proposed deck cannot be constructed without the requested side-yard setback variances.

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 **GRANTED**.

7/23/19
Date

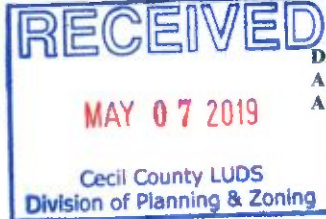

Mark Saunders, Chairperson

**BOARD OF APPEALS APPLICATION
CECIL COUNTY, MARYLAND**

MEET. MONTH: June 2019
FILE NO. 3940

THIS REQUEST IS FOR:

- SPECIAL EXCEPTION RENEWAL
 SPECIAL EXCEPTION
 VARIANCE
 APPEAL



DATE FILED: 5/7/19
 AMOUNT PD: \$200.00
 ACCEPTED BY: _____

A. APPLICANT INFORMATION

Paul R. Rodgers
 APPLICANT NAME – PLEASE PRINT CLEARLY
 26 Ground Pine Path Elkton MD 21921
 ADDRESS CITY STATE ZIP CODE
 APPLICANT SIGNATURE Paul R. Rodgers 443-907-7104
 PHONE NUMBER

B. PROPERTY OWNER INFORMATION

Paul Robert & Samona Francis Rodgers
 PROPERTY OWNER NAME – PLEASE PRINT CLEARLY
 26 Ground Pine Path Elkton MD 21921
 ADDRESS CITY STATE ZIP CODE
 PROPERTY OWNER SIGNATURE Paul R. Rodgers Samona F. Rodgers 443-907-7104
 PHONE NUMBER

C. PROPERTY INFORMATION

26 Ground Pine Path, Elkton, MD 21921 05 102731
 PROPERTY ADDRESS ELECTION DIST. ACCT. NUMBER
 0042 0435 34 .779 ACRE LDR
 TAX MAP # BLOCK PARCEL LOT # #ACRES ZONE

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

Hello My wife and I would like to build a 12' X 24' off the back of our home. Our property has a 10' side yard set back requirement in which our deck will be encroaching this set back requirement by approximately 5'. To change the dimensions or overall length of the deck from 24' would place the deck off center from the back of the house. We ask if we could please gain permission to encroach this set back requirement area allowing the deck to appear centered with the rest of the house. A 10' SIDEYARD SETBACK VARIANCE FOR CONSTRUCTION PURPOSES. 5'

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: ART. XVII, PT. I, S. 306

H. SPECIAL EXCEPTION RENEWAL – PREVIOUS FILE NO. & CONDITIONS FOR APPROVAL: _____

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

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

35

20

34

226.64

108.62

26

V-6

V-5

701934900

135.35

710.59

78.8

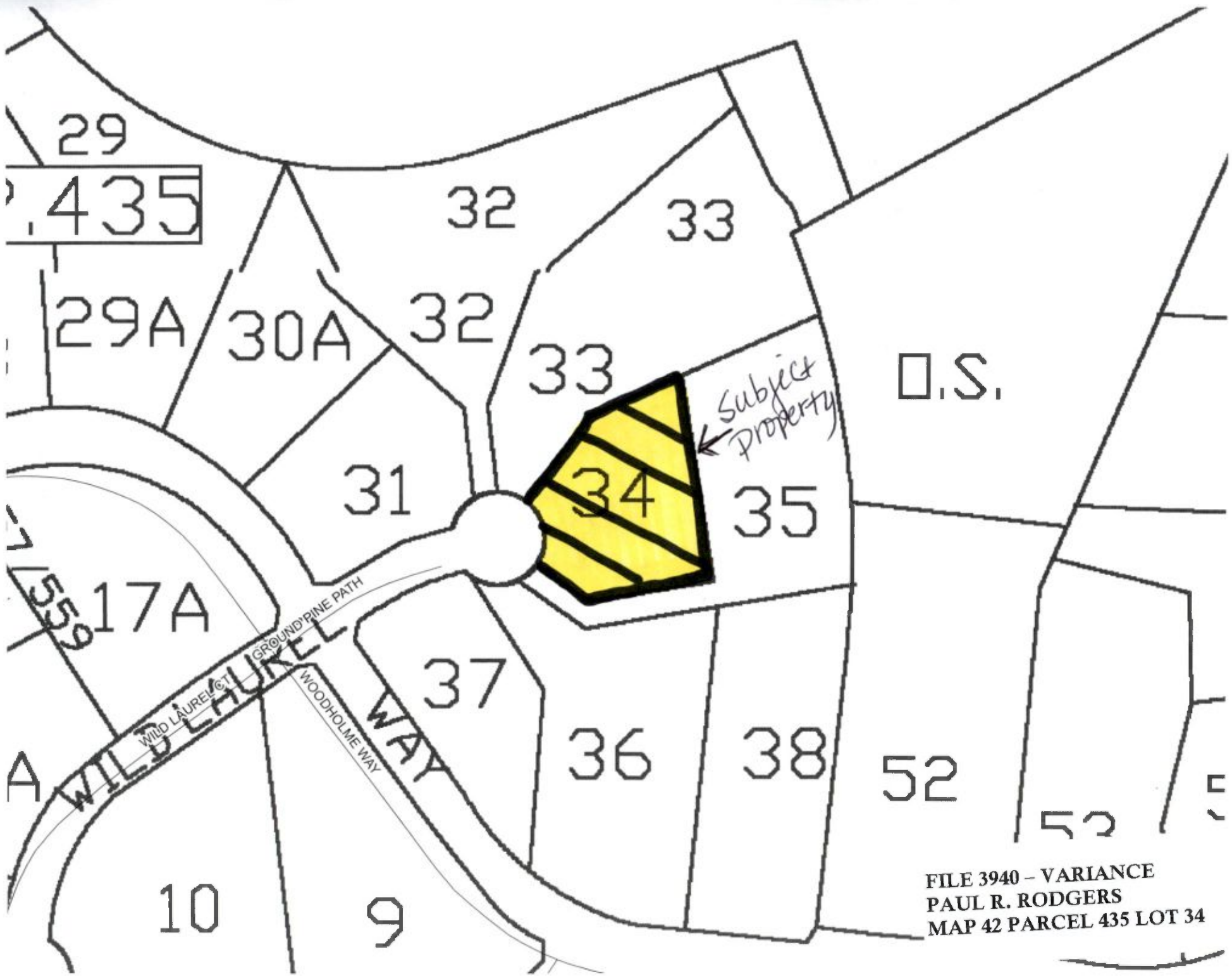
69.62

26.18

35.07

5' into the
18' set back
to set back
to set back
to set back





29
435

32

33

29A

30A

32

33

O.S.

31

34

35

Subject Property

559

17A

GROUNDPIPE PATH

WOODHOLME WAY

37

36

38

52

A

WILD LAUREL WAY

10

9

52

FILE 3940 - VARIANCE
PAUL R. RODGERS
MAP 42 PARCEL 435 LOT 34