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| IN THE MATTER OF | * | BEFORE THE CECIL COUNTY |
| THE APPLICATION OF | * | BOARD OF APPEALS |
| HEATHER ESTEPP | * | CASE NO.: 4078 |
| | * | |
| (Variance – RR) | * | |
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OPINION

The Cecil County Board of Zoning Appeals (the “Board”) is now asked to consider the application of Heather Estep with CMH Homes (“Applicant”) for a variance to the front yard setback requirements. The subject property located at Midway Drive, Earleville, Maryland, being designated as Parcel 25, Lot 158 on Tax Map 55, in the First Election District of Cecil County (“Property”), in an area presently zoned Rural Residential (RR). The Property is owned by CMH Homes, Inc.

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.

On May 25, 2021, Applicant appeared and testified in support of her application for a three (3) foot variance to the front yard setback requirements for construction purposes to accommodate the building of a residential home and septic system. Applicant supplied with her Application a plat design created by Andrews Land Surveying dated March 9, 2021 showing the plan for the construction. Along with the plat design, a diagram of the subject parcel and surrounding lots was submitted. The diagram shows that the subject parcel is small compared to adjacent parcels and is a corner lot, further creating building restrictions due to the side setback requirements. Applicant testified that the septic system would be at least five (5) feet from any neighboring property line as required.

One witness spoke in opposition of the Application expressing concerns that the septic system would be too close to his home and property line.

No other witnesses spoke in favor or in opposition 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 of facts:

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 the Ordinance. The size and shape of the parcel present restrictions that do not apply to other properties in the zone. Building a residential home with proper septic facilities is a significant and reasonable use of the Property. Without a variance, the Applicant would not have the ability to utilize the Property in a manner that is common to this zone.

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. For the reasons stated in the previous paragraph, the Board finds it would be considered an undue hardship to deny the Applicant the previously discussed use and enjoyment of the Property.

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. The proposed structures and use are common to properties in the zone. Granting the variance would not negatively impact neighboring properties or confer upon the applicant any special privilege.

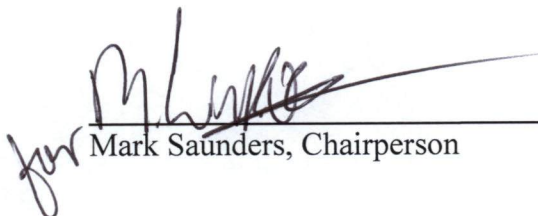
4. There is no evidence that the variance request arises from any condition to land or building use, either permitted or non-conforming, on any neighborhood property.

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**.

All applicants are hereby notified that they are required to obtain any and all necessary licenses and permits required for the use described herein.

6/29/21

Date

for 

Mark Saunders, Chairperson