

IN THE MATTER OF * BEFORE THE CECIL COUNTY
THE APPLICATION OF * BOARD OF APPEALS
DONALD & MICHELE WIMER * CASE NO.: 4171
*
(Variance – NAR)

* * * * *

OPINION

The Cecil County Board of Zoning Appeals (the “Board”) is now asked to consider the application of Donald and Michele Wimer (“Applicants”), for a variance to the rear yard setback requirements at the subject property located at 14 Campbell Ct., Conowingo, MD 21918 being designated as Parcel 296, Lot 20 on Tax Map 8, in the Eighth Election District of Cecil County (“Property”), in an area presently zoned Northern Agricultural Residential (NAR). The Property is owned by the applicants who both properly signed the Application.

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.

Applicants appeared and testified at the November 2022 meeting of the Board of Appeals in support of their application seeking a twenty (20) foot variance to the 100 foot rear yard setback requirement to construct a 24' x 20' addition to be used as a family room on the back of the existing home.

Applicant explained there are only three houses in the neighborhood with a setback requirement of 100 feet – others have a forty (40) foot setback requirement more typical of a residential parcel. Neither the architect or the builder brought up the restriction as a concern, and the Applicants did not learn of it until they applied for a building permit. Applicants further testified they spoke with the adjacent neighbor to the rear of the Property, Bill Webb, who has no concerns about the proposed construction. Applicants also provided a statement in support of their application signed by seven neighbors.

No witnesses spoke in opposition to the Application.

From the evidence presented, the Board makes the following findings of facts:

1. The variance request is based upon the narrow shape of the parcel combined with a 100 foot setback which is not typical of the neighborhood. A literal enforcement of the provisions of the Ordinance in this case would deprive the applicant the ability to build onto the rear of the existing home where there is a reasonable amount of space to do so were it not for the setback restriction. The narrow shape of the parcel prevents building on the sides of the home.

2. The special conditions and circumstances identified in the previous paragraph are not applicable to other lands, buildings, or structures in the same zone and are not the result of actions by the applicants. The size of the lot taken into consideration with the unusual setback presents a unique situation that allows the Board to consider this Application. The proposed structure would not be feasible on either side of the Property because of the narrow parcel design, and the Applicants have provided evidence that neighbors support the proposed use.

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 as supported by testimony. The Board finds that the Applicant's request is to facilitate a reasonable use of a residential property that would otherwise not be permitted under a literal enforcement of the Ordinance; the Applicant has requested a conservative deviation from the setback requirements to build an addition onto the residence that will not negatively impact surrounding properties in any way.

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**.

12/28/22
Date


Mark Saunders, Chairperson