

ALLEGANY COUNTY BOARD OF ZONING APPEALS

**IN RE: APPLICATION OF
BEATRICE WILLISON
FOR A VARIANCE**

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Case No.: 957

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Hearing Dates: 09/05/18

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FINDINGS

This case came before the Allegany County Board of Zoning Appeals (the “Board”) upon Beatrice Willison’s request for variance of the special setback requirements found in Section 360-126, Table 2, of the Allegany County Zoning Code.

A field inspection of the subject property was conducted by the members of the Board on August 30, 2018. The purpose of the field inspection was to familiarize the Board members with the site layout in order for them to develop an understanding as to where the proposed use would be located and to assess the ability to grant a variance in this particular situation.

At the hearings held on September 5, 2018, the Board considered the attached list of exhibits which consisted of information gathered by the Division Chief and information provided by other agencies and individuals.

The proposed use is a carport. It is located on applicant’s property beside her home located at 17113 Carscaden Road, SW, Frostburg, Allegany County, Maryland.

The Board considered testimony presented at the hearing in order to ascertain whether the proposed use and facts and circumstances surrounding this project would warrant the grant of a variance.

The Board’s findings are as follows:

1. The Board of Appeals is specifically authorized to grant a variance in this type of case by Section 360-141 (d) of the Allegany County Zoning Code.
2. That the proposed use is in harmony with current zoning in the area and the Allegany County Comprehensive Plan.
3. That Section 360-126, Table 2, of the Ordinance requires a minimum side setback distance of eight (8) feet from the property line.

4. That the evidence presented by the applicant establishes that the carport, when erected, would have a side setback of approximately two (2) feet.

5. That the proposed structure does not meet the minimum side setback requirements and as a result is subject to the provisions of the Allegany County Zoning Code regarding modifications of the zoning regulations found in Section 360-141 (d).

6. That as a prerequisite to the granting of a variance, the applicant must establish that the property whereon structures are to be placed is, in and of itself, unique and unusual in a manner different from the nature of the surrounding properties such that the uniqueness or peculiarity of the property causes the zoning provision to impact disproportionately upon the property.

7. That the applicant produced testimony that, due to the size and slope of the property, the proposed carport could not be built absent the variance requested. Specifically, the frontage of the property was narrow on each side and the carport would encroach no matter which side she chose. Further, the back of the property was sloped in such a manner that it would make it very difficult to access, particularly in the winter months. Finally, the suggested alternatives contained all of the utility boxes and power lines to the home which would make those areas unsuitable.

8. That the neighboring property owner, Mr. Wayde Yeager, whose property abuts the area in which the setback would be narrowed, testified that he had no objection to the Board granting this variance with a condition that spouting be used and the water piped to the center of the applicant's property.

9. That the narrow frontage of the property and the location of the utilities on the property are unique as compared to similarly situated properties.

10. That the necessity for a variance in this matter is not a result of any action taken by the applicant in this matter but merely the physical layout of the lot.

11. That the Board finds that strict adherence to the ordinance will create a practical difficulty for the applicant.

CONCLUSIONS

Based upon the findings set forth above, the Board voted at the conclusion of the hearing of September 5, 2018, 3-0 in favor of granting the Applicant's request for a variance as to the side

setback requirement pursuant to Section 360-126, Table 2, of the Allegany County Zoning Code. This grant is conditioned upon applicant placing proper rain spouting on the carport and piping all water to the center of applicant's property. The applicant must also comply with all other the terms and criteria of the Zoning Ordinance at all times and must also obtain the approval of all State, County, and municipal agencies whose approvals are required for the conduct of the proposed use.

ATTEST

BOARD OF ZONING APPEALS



By:



Julia Williams, Chairperson

Copies to: See Attached List
Attachment: Exhibits List

BOARD OF ZONING APPEALS

FOR ALLEGANY COUNTY, MARYLAND

CASE# 957

MS. BEATRICE WILLISON

SEPTEMBER 5, 2018

EXHIBITS LIST

FINAL

- A. An Allegany County *Land Use Permit Summary* covering a *Land Use Permit Application* and assorted administrative documents (i.e. invoice(s), receipts, etc.)
- B. Site Plan.
- C. Completed *Petition for Variance*.
- D. Photocopy of an Allegany County Tax Map for property identification.
- E. An *Adjoining Property Owners List* completed and signed by the Applicant.
- F. A *Notification of the Hearing*, with attached distribution list, dispatched to adjoining and adjacent property owners by the Secretary of the Board.
- G. *Notification of Hearing* dispatched to the Applicant by Secretary of the Board
- H. A supplementary *Notification of the Hearing* dispatched to adjoining and adjacent property owner [Halcomb] by the Secretary of the Board
- I. *Inter Office Memo*, prepared by the LDS office, that was distributed to the necessary review agents notifying them of this Case, date, time and requesting comment.
- J. *Public Notification*, dispatched to the Cumberland Times/News, for the purposes of notifying the general public of the hearing date, time and location.
- K. *Certification of Public Notice*, received from the Cumberland Times/News, certifying that the *Public Notification* was published August 11th, 2018; exhibit includes Page 5B of Saturday, August 11th, 2018, edition of the Cumberland Times/News, further verifying that the *Public Notification* for Case 957 was published.
- L. Returned LUPA Record Summary #1806014 from Jim Taylor, Utilities Division, noting "...no utilities involved..."
- M. Returned *Inter-Office-Memo*, dated 8/27/2018, from Mark McKenzie - SHA, with comment; "... no comment..."
- N. Memorandum dated September 5th, 2018, from James A. Squires Jr., Division Chief, to the Allegany County Board of Zoning Appeals, regarding site development plan requirements.
- O. Correspondence to BOZA from Ms. Tracy Gomer, undated.

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Frostburg, MD 21532

Mr. Melvin Boore
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Mr. Shawn Dick
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Frostburg, MD 21532

Ms. Tracy Gomer
10613 Hoffman Hollow Rd., SW
Frostburg, MD 21532

Ms. Virginia Halcomb
5812 Quality Hill Rd.
Colleyville, TX 76034

Ms. Martha Miller
10617 Hoffman Hollow Rd., SW
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