

BEFORE THE BOARD OF APPEALS OF QUEEN ANNE'S COUNTY

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In the Matter of the Application of

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Robert T. Holland and
Maria A. Holland

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Case No. V-18030001

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for a Zoning Variance

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OPINION AND ORDER

Introduction

The matter before the Board of Appeals of Queen Anne's County ("Board") in this case is a variance application filed by Robert T. Holland and Maria A. Holland ("Applicants"). The Applicants seek relief from two zoning standards. One standard requires a 35-foot front-yard setback. The other standard requires residential accessory buildings to be in a side or rear yard.

On March 29, 2018, beginning at 5:00 p.m., the Board conducted a public hearing in the main meeting room in the County's office building at 110 Vincit Street, Centreville, Maryland, to consider the Applicants' variance request. At the beginning of the hearing, the Board established all requirements were met governing (1) the filing of the variance application and (2) notice of the March 29, 2018 public hearing. No one attending the public hearing objected to the jurisdiction of the Board to hear the Applicants' case. Board members hearing the case were Mr. Kenneth R. Scott, Chairman; Mr. Howard A. Dean, Vice Chairman; and Mr. Craig W. McGinnes, Member.

Requested Relief

The Applicants request a variance from § 18:1-32.D.(2)(b)[b][i] and § 18:1-45.B.(1)(b)[3] of the Code of Public Laws of Queen Anne's County ("Code") to construct an

accessory building 25 feet from the right-of-way of Watermans Court, partially in the front yard of the Applicants' lot. Section 18:1-32.D.(2)(b)[b][i] of the Code establishes a minimum front-yard setback of 35 feet. Thus, the Applicants request a 10-foot variance from the setback standard. Section 18:1-45.B.(1)(b)[3] of the Code requires residential accessory structures to be in a side yard or a rear yard. Thus, the Applicants request a complete variance to the yard standard for the portion of the garage that will be in the front yard. The accessory building the Applicants propose is a one-story detached garage, 24 feet wide by 20 feet deep.

Variance Standards

The standards the Board must apply to the Applicants' variance request are set forth in § 18:1-121.B. of the Code:

1. Literal enforcement of Chapter 18:1 of the Code would result in unnecessary hardship or practical difficulty as the result of specified conditions;
2. Those conditions are peculiar to the property involved;
3. Those conditions are not the result of any action taken by the appellant;
4. The variance will not be contrary to the public interest; and
5. Evaluation of the alternatives proves a variance is required.

In addition, under the provisions of § 18:1-122 of the Code, the Board must find the requested variance is no greater than the relief minimally required to ameliorate the circumstances giving rise to practical difficulties or unnecessary hardship.

Property and Neighborhood Description

The Applicants' property is in the Fifth Election District of Queen Anne's County. The property is located at 4000 Main Street in Grasonville, at the southeast corner of Main Street and Watermans Court ("Property"). The Property is designated as parcel 124 on Sectional Zoning Map No. 58H. The Property is zoned GNC, Grasonville Neighborhood Commercial. The

Property in the Chesapeake Bay Critical Area. Critical Area maps classify the Property as part of an IDA, Intense Development Area.

The Property is basically rectangular. The Property is a corner lot, with about 70 feet of frontage along the south side of Main Street and about 210 feet of frontage along the east side of Watermans Court. The Property is 14,700 square feet (0.34 of an acre) in size. The Property is improved with a 1½-story wood-frame single-family home that faces Main Street. The home has a porch on its Main Street side and deck on the opposite side. A gravel driveway accessing Main Street and private well serve the home. The home is connected to public sewer. Vegetation on the Property includes several mature trees, shrubs, and lawn.

The yard beyond the rear of the home (facing away from Main Street) is enclosed by a fence. A small shed is located near the Property's southeast corner. The Property's southwest corner is occupied by a small concrete building and attendant gravel parking area located within an easement owned by Verizon. The easement area measures 30 feet along Watermans Court, and it extends 40 feet into the Property. Verizon uses the building to shelter utility equipment.

The neighborhood is a triangular portion of Grasonville's Main Street corridor, from Chester River Beach Road northwestward to on-and-off ramps connecting Main Street with U.S. Route 50. The neighborhood contains a mix of uses that include single-family homes, retail businesses, service businesses, banks, a car dealer, a medical center, and a church. Watermans Court serves a cluster of about ten residential buildings, which SDAT records indicate are condominiums. The buildings at the end of the street back up to forested lands, beyond which are wetlands associated with Marshy Creek.

Department of Planning and Zoning Recommendation

Mr. Harold Veasel, a zoning inspector with the Department of Planning and Zoning ("P&Z") represented P&Z during the public hearing. Mr. Veasel explained P&Z's staff report. He also went over a revised variance site plan. The Board admitted the P&Z report into evidence

as P&Z Exhibit 1 and admitted the revised site plan into evidence as P&Z Exhibit 2. As Mr. Veasel testified, the revised site plan was projected onto a screen for the public and Board to view.

Mr. Veasel testified the Property is a corner lot with two road frontages. This means the Property has two front yards. In this case, the two front yards represent about half of the Property. In addition, both the area that would qualify as the Property's rear yard and the area that would qualify as the Property's only side yard are relatively shallow. Because of the shallowness, there is little room to locate a detached garage in either of these yards, especially after application of the rear-yard setback.

Mr. Veasel testified the proposed garage will be set back 25 feet from Watermans Court. This setback is four feet greater than the existing 21-foot setback of the home on the Property. Because of the "notch" created by the Verizon easement, the garage cannot be set back any farther without cutting off access to the area of the Property behind the easement. Moreover, there is a shed in this area of the Property with a garage-style door facing toward the home. Pushing the garage farther back from Watermans Court would effectively render the shed inaccessible.

Mr. Veasel noted that if Watermans Court were not a road, but instead were a side lot line, the detached garage could be moved as close as to three feet to the lot line. In such a case, the Applicant would not need a setback variance, and the shed would remain accessible. In conclusion, Mr. Veasel testified P&Z has no objection to approval of the requested variances.

Applicants' Presentation

Mr. Robert Holland appeared on his own behalf and on behalf of co-applicant Maria Holland. Mr. Holland testified the Property is just 70 feet wide. Under today's standards, only 10 feet of the Property would fall outside of the 35-foot and 25-foot rear yard setbacks. Mr. Holland testified the Verizon easement creates a "blind spot" in the southern portion of the

Property. If he had to place the garage 35 feet from Watermans Court, his view of the shed and the area behind the Verizon easement would be cut off. Cutting off the view of this portion of the Property would prevent him from making sure the shed and land around it are safe from those who might venture there through the Verizon easement or otherwise.

Mr. Holland testified the proposed setback for the garage is compatible with the setbacks maintained by the condominium buildings along Watermans Court. Mr. Holland believes these buildings are located closer than 35 feet to the street because the lots are part of a cluster subdivision. Mr. Holland testified he will try to avoid taking down the closest mature tree on the Property when building the garage. He believes this will be possible.

Testimony by Others

No one else appeared at the hearing.

Findings and Conclusions of the Board

Based on the testimony and exhibits provided by Mr. Veasel of the Department of Planning and Zoning and Mr. Holland, and duly considering the factors set forth in § 18:1-121.C. of the Code, the Board finds and concludes as follows.

1. Because of conditions associated with the Property, the Board concludes a literal enforcement of the provisions of § 18:1-45.B.(1)(b)[3] of the Code would result in a practical difficulty. The Property is unusually impacted by its dual road frontage, which results in two front yards and comparatively small side and rear yards. Applicants' Exhibit 2 indicates the home on the Property was built in 1940, which is long before adoption of current zoning and setbacks. The Property is also narrow from east to west. The 70-foot width and 210-foot depth of the Property yields a depth-to-width ratio of 3:1, which is unusually large and highlights the narrowness of the Property. Moreover, the Verizon easement makes the southern portion of the Property odd-shaped. In a practical sense, this odd shape would sever a portion of the Property if the proposed garage were to be set back 35 feet from Watermans Court.

2. The Board concludes the foregoing conditions are peculiar to the Property. The Property's dual road frontage and the location of the home result in the Property having only one side yard. This is peculiar because almost all single-family lots have two side yards. Furthermore, because the home on the Property is narrow (by today's standards), the Property's single side yard is narrow. The Property's rear yard is also narrow, especially factoring in the distance the garage must be separated from the home and the minimum rear-yard setback. Therefore, the only practical location for a detached garage is at least partially in one of the two front yards.

Regarding the proposed 25-foot setback, the narrowness of the Property peculiarly impacts the ability of the Applicants to meet the 35-foot setback from Watermans Court. This peculiar impact is made even more peculiar by the location of the Verizon easement. The easement creates a 30-foot by 40-foot "notch" in the southern portion of the Property. Because of this notch, full application of the 35-foot setback would, as a practical matter, sever the southeast corner of the Property from the rest of the Property. The shed located in this severed area would then become almost useless.

3. The foregoing conditions are not the result of actions taken by the Applicants. The Applicants purchased the Property in December 2012 (Applicants' Exhibit 2). The home on the Property was built in 1940, which means the home is about 78 years old and the Property itself is at least that old. Thus, the narrow Property was created, and the home was built, long before the Applicants acquired the Property. The Applicants also are not responsible for the Verizon easement, which existed when they purchased the Property.

4. The Board concludes the variance will not be contrary to the public interest. Lots across Watermans Court will not be detrimentally impacted by the variance, because the garage will be in an area that would be one of the Property's side yards if the Property had frontage only on Main Street. The proposed 25-foot setback from Watermans Court is about the same setback

that other buildings along the court maintain. In addition, the garage will be located no closer to Watermans Court than the existing home on the Property, as well as no closer to the street than the utility building in the Verizon easement. These facts, coupled with the fact Watermans Court is perfectly straight from Main Street to the court's cul-de-sac, means a 25-foot setback will not create a sight-distance problem along the street.

Concerning possible impacts to Main Street, the Board finds the proposed garage will have no negative impact on this mixed-use corridor-roadway. Given the location of the home on the Property, the presence of mature trees on the Property, and the distance the garage will be located from Main Street (about 150 feet), the motoring public and the owners of lots on the north side of Main Street will barely be able to see the garage, if at all. Concerning the parcel adjacent to the Property to the east, this parcel is large and enjoys a large side yard abutting the Property. Moreover, the proposed garage meets required setbacks on the east side of the Property.

The Board believes the proposed garage will modestly enhance the value of the Property. As a result, the garage will correspondingly enhance the values of neighboring properties. The Board also notes neighboring landowners did not appear before the Board, or send letters to the Board's clerk, to object to the Applicants' variance request. From the lack of opposition to the variance, the Board infers the variance will allow the Applicants to build a compatible improvement consistent with the public interest—an inference that is consistent with the other evidence before the Board.

5. The Board concludes that an evaluation of alternatives proves the requested yard-locational variance is required. Because of the Property's (1) dual-road frontage, (2) single and small side yard, and (3) comparatively small rear yard, no alternatives exist except to locate the proposed garage at least partially in one of the Property's two front yards. The same conditions, plus the impact on the Property associated with the Verizon easement, also eliminate any

alternative other than locating the garage closer than 35 feet to Watermans Court. In the Board's judgment, improving the Property with a detached garage where the Applicants propose is appropriate, reasonable, and in harmony with the neighborhood.

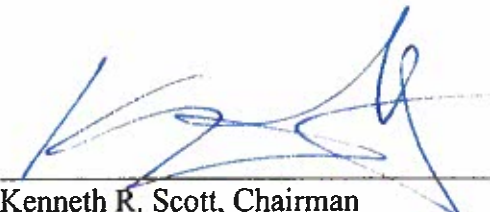
6. Finally, the Board concludes the variance requested is the minimum variance necessary. Granting a variance that, in effect, waives the yard-locational standard for accessory buildings is the only amount of variance that will provide relief from the peculiar conditions associated with the Property. Even though the variance represents a waiver of the yard-locational standard, the Board notes only about half of the proposed garage will be in the front yard. The other half will be in the Property's one side yard. The Board also concludes reducing the front-yard setback by 10 feet is the minimum distance that affords the Applicants meaningful relief from the required 35-foot setback. A lesser amount of variance would negatively impact the view of, and access to, the Property's southeast corner. The Board notes, too, the proposed 25-foot setback is equal to or greater than the setback from Watermans Court already established by the home on the Property and Verizon's utility building. Thus, the Applicants do not seek to decrease the setback line already established along Watermans Court.

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Based on the foregoing findings and conclusions, by a vote of three in favor and none opposed, the Board grants to the Applicants a variance from § 18:1-32.D.(2)(b)[b][i] and § 18:1-45.B.(1)(b)[3] of the Code to allow a detached garage to be located in the Property's front yard facing Watermans Court and to allow the garage to be set back as close as 25 feet from the right-of-way of Watermans Court, substantially as depicted on Applicants' Exhibit 4.

ORDER

For the reasons set forth in the foregoing Opinion, it is this 25th day of April, 2018, ordered that the variance requested for Robert T. Holland and Maria A. Holland, in Case No. V-18030001, be granted.



Kenneth R. Scott, Chairman



Howard A. Dean, Vice-Chairman

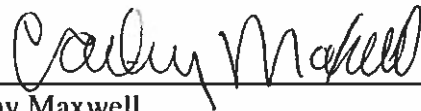


Craig W. McGinnes, Member

State of Maryland, County of Queen Anne's:

I HEREBY CERTIFY that the foregoing is a true and correct copy of the Opinion and Order of the Board of Appeals of Queen Anne's County in Case Number V-18030001, for Robert T. Holland and Maria A. Holland, which Opinion and Order resulted from a public hearing conducted by the Board of Appeals on March 29, 2018 and that the minutes and a recording of the March 29, 2018 meeting are filed in the office of Board of Appeals.

Certified this 25th day of April, 2018 by:

A handwritten signature in cursive script, appearing to read "Cathy Maxwell", is written over a horizontal line.

Cathy Maxwell
Clerk to the Board of Appeals