

**MEETING MINUTES  
BOARD OF ZONING APPEALS  
FOR CAROLINE COUNTY, MARYLAND**

**DATE:** March 19, 2019

**PLACE:** Health & Public Services Building  
403 S. 7<sup>th</sup> Street, 1<sup>st</sup> Floor, Room 110  
Denton, Maryland 21629-1335

**BOARD MEMBERS  
(PRESENT):** René Swafford, Chairman  
Mary Leavell, Vice-Chair  
Mike Mann, Member

**ALSO, PRESENT:** Bob Merriken, Attorney  
Crystal Dadds, Assistant Director of Codes  
Melanie Smith, Board Administrative Assistant

Chairman Swafford called the Caroline County Board of Zoning Appeals to order at 6:01 p.m.

**CHEESMAN VARIANCE #201800020**

Chair Swafford read the Notice of Public Hearing into the record. Mr. Cheesman is requesting to build a pole building closer to the side and rear property lines than the minimum required setback. The property is located on Pepper Road in Federalsburg, Maryland.

Ms. Dadds read the exhibits into the record:

- Exhibit 1 – Planning & Codes Staff Report
- Exhibit 2 – Variance Application
- Exhibit 3 – Real Property Data Sheet & Tax Map
- Exhibit 4 – List of Notified Adjoining Property Owners
- Exhibit 5 – Water & Sewer Verification
- Exhibit 6 – Notice of Public Hearing
- Exhibit 7 – Site Plan by Davis, Bowen & Friedel
- Exhibit 8 – Photographs of the Property
- Exhibit 9 – Notice of Hearing to the Applicant

Ms. Dadds read the staff report into the record.

Mr. Cheesman explained that he is interested in constructing a 32' x 52' pole building in the rear left corner of his property in order to store his boat, 2 tractors, skid loader and lawnmowers. He used the tractors for his chicken houses (not located on this property). He explained that he chose this area of the yard because the septic reserve area was located in the rear right corner and there are overhead electric lines along the right side of the property that would prevent him from building.

He bought the property in 2010 as it was without outside storage. It was not unusual for other properties in the area to have outside storage as he is requesting. His father owns the property surrounding his, which he expects to eventually inherit. Therefore, he felt building closer to the property line than is normally permitted should be approved.

The Board explained that they cannot approve his application on a presumption of future events. They asked if he had approached his father about doing a lot line revision to allow him the space he needs to build without a variance. Or, if he had inquired about having the power lines moved out of the way.

Mr. Cheesman replied that his father did not think that it was necessary to do more than ask for a variance. Neither had Mr. Cheesman inquired into moving the power lines.

Ms. Dadds added that the plans did not show a platted SRA and it's possible that it could be reconfigured to allow more room to build. She also noted that the LOD reached outside of his property line and would have to be resolved.

Ms. Leavell asked if a smaller building would be acceptable to him if the Board was unable to approve the size he was requesting. Mr. Cheesman explained that decreasing the size of the building as much as was necessary would prevent him from opening the doors to store his equipment.

Mr. Merriken explained that the Board could not grant a variance unless the conditions in Chapter 175, Article XVII, Section 152D in the Caroline County Zoning Code were satisfied. He explained each condition for Mr. Cheesman's response. Mr. Cheesman desires a large building to store his equipment and intends to accumulate more. He felt that moving the building to the right of the home would be a possible eyesore to his neighbor and would require him to spend more to install a driveway off of Pepper Road.

Ms. Dadds explained that money cannot be considered a hardship when reviewing the conditions. Chair Swafford added that his desire for such a large building was not reason enough to approve a variance to the code, particularly for such a large variance.

Ms. Swafford listed several viable solutions that would not require a variance.

- Erecting a smaller building (Mr. Mann suggested a 30' x 52' building would be a good compromise);
- Doing a lot line revision (the members offered various ways this could be achieved without interfering with his father's crops);
- The power lines could be moved over.

Ms. Dadd also suggested that he could have the SRA platted to create additional room to build.

Mr. Cheesman closed by stating that he hopes the Board will approve his request so that he can keep his equipment out of the weather and safe from thieves.

Chair Swafford closed this portion of the meeting for deliberation.

Consulting Chapter 175:152 D the Board discussed their findings.

1. An application was submitted. (See exhibit 2)
2. The meeting was duly advertised. (See exhibit 6)
3. A. The Board did not feel that the request would be out of character for the neighborhood nor be injurious to the public health, safety or welfare. But it could be a problem for a future landholder if his father's land were to be sold. The Board agreed that approving the variance was not in harmony with the intent or general purpose of the Zoning code. The request was to build substantially close to the property line both at the rear of the property and the side.  
B. The available area to build on the lot was not a condition that arose from the action of the applicant.  
C. The situation is not of such a recurring nature as to make practicable a general amendment to this chapter.  
D. The Board offered Mr. Cheesman four alternate solutions that would satisfy his need without requiring a variance to the code. For this reason and those stated in section 3.A. the Board did not agree that granting a variance was the minimum necessary to afford relief.  
E. The property is not located in the Critical Area; therefore, this condition does not apply.

**Motion:** Mr. Mann made a motion to deny the application. He explained that Choptank Electric is in the process of converting overhead lines to underground cables, making this an ideal time to ask that the line be moved. He pointed out the distance Mr. Cheesman was asking for was 35' from the side and 20' from the rear property line. He could not justify the application when it could be placed elsewhere within the property lines.

**Second:** Ms. Leavell seconded the motion. She agreed with Mr. Mann that the distance was a lot to ask a variance for and building just 5' from two property lines was unreasonably close.

**In Favor:** The motion was approved unanimously (3-0).

## REVIEW AND APPROVAL OF MINUTES

The members read the minutes of the February 19, 2019 Board of Zoning Appeals meeting. No corrections or additions were needed.

**Motion:** Ms. Leavell made a motion to approve the minutes as written

**Second:** Chair Swafford seconded the motion.

**In Favor:** The motion was approved unanimously (2-0).

## ADJOURNMENT

**Motion:** Mr. Mann made a motion to adjourn the meeting at 7:22 p.m.

**Second:** Ms. Leavell seconded the motion.

**In Favor:** The motion was approved unanimously (3-0).

The meeting was adjourned at 7:22 p.m.

BOARD OF ZONING APPEALS  
René Swafford, Chairman

  
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Minutes prepared by: Melanie Smith