

**FINDINGS AND RECOMMENDATION
OFFICE OF PLANNING AND ZONING
ANNE ARUNDEL COUNTY, MARYLAND**

APPLICANT: Jose Reyes

ASSESSMENT DISTRICT: 4th

CASE NUMBER: 2024-0064-V

COUNCILMANIC DISTRICT: 4th

HEARING DATE: July 18, 2024

PREPARED BY: Robert Konowal
Planner

REQUEST

The applicant is requesting a variance to perfect an accessory structure (shed) with less setbacks than required at 254 Sharptown South in the subdivision of Maryland City, Laurel.

LOCATION AND DESCRIPTION OF SITE

The subject property has 67 feet of road frontage on the west side of Sharptown South, 115 feet north of Wenona South. These lands have an area of 7,200 square feet. The site is shown on Tax Map 19, Grid 17, in Parcel 172 as Lot 5 and zoned "R5-Residential District". The current zoning was adopted by the Comprehensive rezoning for the Fourth Council District, July 10, 2011.

The site is currently improved with a single-family detached dwelling. There are also three sheds that are located along the rear property line and what appears to be a pole barn along the north side lot line. The property is served by public water and sewer.

APPLICANT'S PROPOSAL

The applicant is proposing to perfect the location of the existing 12-foot by 15-foot shed that is located closest to the south west corner of the site.

REQUESTED VARIANCES

Section 18-4-701. of the Anne Arundel County Zoning Ordinance states that in an R5 District an accessory structure greater than eight feet in height is required to be located a minimum of seven feet to a rear or side lot line. The shed has been located four feet from the rear lot line and two feet from the (south) side lot line necessitating variances of three feet and five feet respectively.

FINDINGS

There is an open violation B-2023-577 for a partially constructed shed in the rear yard without a permit. A previous variance (Case 2002-0054-V) was approved to allow a dwelling addition (deck/stoop) with less side lot line setback than required.

For the granting of a zoning variance, a determination must be made that, because of unique physical conditions, there is no reasonable possibility of developing the lot in strict conformance with the Code, or that, because of exceptional circumstances other than financial considerations, the grant of a variance is necessary to avoid practical difficulties or unnecessary hardship in the development of the lot.

This Office finds that the subject property at approximately 65 feet in width and 7,200 square feet in area does meet both the minimum lot width requirement of 60 feet and the minimum lot area requirement of 7,000 for a lot located in a R5 Residential District. The lot is however somewhat irregularly shaped tapering inward towards the rear lot line which does provide for a reduced rear yard. The applicant already enjoys the use of two sheds located in the rear yard and third pole barn type structure along the north side lot line. These structures provide for covered storage totalling some 300 square feet. If the applicant required additional storage the shed could have been placed in accordance with the Code. Consequently, given the above the applicant has failed to provide any evidence of any practical difficulty in complying with the Code nor would denial of a variance cause hardship in the use of these lands.

A review of the subdivision plat for Maryland City and the applicant's location plan indicates there is a five-foot easement running along the south side lot line and rear lot line. The subdivision plat note indicates this easement is reserved for utilities. The subject shed is encroaching into that easement along the side and rear property lines. The applicant is requesting variances that would allow the subject structure to remain in the easement.

As the variance has not been justified it cannot be the minimum necessary to afford relief.

Approval of the variances would not necessarily alter the essential character of the neighborhood as there are a number of similarly sized and located structures in the immediate neighborhood. Approval of the variances would however impair access to and the use of the utility easement. Impaired access to the utilities located in this easement could compromise the public welfare.

Finally, there is also a concern that approval of variances that would allow the structure to remain in this easement could put the County at risk of liability should the structure be required to be removed in the future to gain access to this easement.

The **Anne Arundel Department of Health** indicated the subject property is served by public water and sewer and have no objection to the application.

RECOMMENDATION

With regard to the standards by which a variance may be granted as set forth under Section 18-16-305. of the County Zoning Code, the Office of Planning and Zoning recommends that the request for variances of three feet to the required rear lot line setback and five feet to the required south side lot line setback for an accessory structure greater than eight feet in height be **denied**.

DISCLAIMER: This recommendation does not constitute a building permit. In order for the applicant(s) to construct the structure(s) as proposed, the applicant(s) shall apply for and obtain the necessary building permits and obtain any other approvals required to perform the work described herein. This includes but is not limited to verifying the legal status of the lot, resolving adequacy of public facilities, and demonstrating compliance with environmental site design criteria.