

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

**APPLICANT:** Dave Huff

**ASSESSMENT DISTRICT:** 3rd

**CASE NUMBER:** 2024-0106-V

**COUNCILMANIC DISTRICT:** 3rd

**HEARING DATE:** August 1, 2024

**PREPARED BY:** Robert Konowal  
Planner

**REQUEST**

The applicant is requesting a variance to allow an accessory structure (garage) with greater floor area than allowed at 8948 Fort Smallwood Road in the Middlebury Addition Subdivision, Pasadena.

**LOCATION AND DESCRIPTION OF SITE**

The subject property has 52 feet of road frontage on the south side of Fort Smallwood Road, 300 feet east of Middlebury Drive. These lands have an area of 22,004 square feet. The site is shown as Lot 1 in Parcel 119 on Tax Map 17, Grid 17 and is zoned R2-Residential District. The current zoning was adopted by the comprehensive zoning for the Third Council District, January 29, 2012.

The property is currently improved with a two story dwelling having a floor area of 1,216 square feet. A two story accessory structure is located in the rear yard. According to the applicant the footprint of the accessory structure measures 23 feet by 38 feet.

**APPLICANT'S PROPOSAL**

The applicant is proposing to remove the existing two-story accessory structure and replace it with a new two story accessory structure with the same size footprint further to the south.

**REQUESTED VARIANCES**

Section 18-2-204. (d) of the Code states that the floor area of an accessory structure may not be greater than the floor area of the principal structure. In the case of the subject property, the applicant has stated the principal structure is 1,216 square feet in area. The proposed two-story accessory structure is 1,748 square feet in area necessitating a variance of 533 square feet to the Code provision.

## **FINDINGS**

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 the subject property with a lot width at building restriction line of approximately 63 feet does not meet the minimum required lot width of 80 feet for a lot in a R2 District. The lot area of 22,040 square feet however exceeds the minimum lot area required of 15,000 for a lot served by public sewer in a R2 District. There is no demonstrated unique physical condition related to the site that prevents compliance with the Code.

The existing dwelling having a total floor area of 1,216 square feet in area is typical of a residential dwelling and does not provide for any identifiable exceptional circumstance or practical difficulty in complying with the accessory structure provisions of the Code. The applicant could provide for a rather sizable accessory structure of approximately 1,216 square feet in size and still comply with the Code. A two car, 24 by 24 foot garage which is typical of a residential use is 576 square feet in area. The proposed structure is to consist of a three car garage on the main floor and a full second story for storage. The applicant has not provided any justification for the use of 874 square feet of storage space.

Finally, the request pertains to new construction where the proposed accessory structure could simply be reduced by 532 square feet to comply with the Code. Denial of the requested variance would not cause hardship in the use of these lands.

Since the variance is not considered to be warranted it cannot be the minimum necessary to afford relief.

Approval of the variance would alter the essential character of the neighborhood as an accessory structure that is greater than the size of the principal structure is not typical for the neighborhood. Approval of the variance would not negatively impact the use of any adjacent property as the improvements are located well away from dwellings on abutting properties. There is no evidence that approval of the variance would be detrimental to the public welfare.

In summary, the subject property presents no unique physical condition or demonstrated practical difficulty in complying with the Code. "Accessory" as defined in the Code means a use or structure that customarily is incidental and subordinate to another use or structure. The proposed accessory structure will dominate the use of this lot and alter the essential character of the neighborhood. Finally even if a case could be made for relief, the variance sought is not the minimum necessary to avoid hardship.

The **Anne Arundel County Department of Health** advised that the site is served by public water and sewer and have no objection to the request.

## **RECOMMENDATION**

With regard to the standards by which a variance may be granted as set forth under Section 18-6-305. under the County Code, the Office of Planning and Zoning recommends that the application 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.