

FREDERICK COUNTY BOARD OF APPEALS
STAFF REPORT VIRTUAL MEETING ON JUNE 25, 2020 @ 7pm

Case Number: B-20-04, B258906

Applicant: Mark Matovich Jr.

Appeal: Variances of 30 feet from the 40 ft. front yard setback in accordance with Section 1-19-3.220 Variances and Section 1-19-6.100 Design Requirements of the Frederick County Zoning Ordinance. The applicant is requesting a variance from the 40 ft. required front Building Restriction Line to place a storage building for farm equipment that had previously been on his family's farm.

Location: P.O. Box 72, 2001 Buckeystown Pike, Buckeystown, MD 21717, Tax Map 0103, Parcel 01, and Tax ID #1101009427, Zoning Agricultural (A), Size 2.89 Acres

Planning Region: Adamstown

Zoning District: Agricultural (A)

Comp. Plan Designation: Agricultural/Rural

Applicable Ordinances: Sec. 1-19-3.220 Variances
Sec. 1-19-6.100 Design Requirements

Background:

The applicants property is zoned Agricultural and is approximately 2.89 acres in size. The property is triangular in shape and contains a long narrow portion (panhandle) that serves as the lot's access to Chris Ford Road. The applicant has indicated that he does not use the panhandle portion of this property that fronts on Chris Ford Road and instead utilizes a separate private lane that is on an adjacent property, to access Buckeystown Pike. His home faces this private lane and not the side of the lot that is considered the lot frontage and includes the panhandle portion of his lot that leads to Chris Ford Road. Therefore based on the location of the proposed structure, it is subject to the required Front Building Restriction Line (BRL) setback of 40 ft.

Proposal:

The applicant is proposing to construct 60 ft. by 40 ft. storage building to hold farm equipment, previously used on his family's farm. The home is 3360 sq.ft. in size and the shed will be 2400 sq.ft.. The proposed location is within the property's front BRL, and accessory structures are not permitted within the Front BRL., therefore, a variance is needed to build within this area. The applicant's request is a 30 ft. variance to the required 40 ft. front BRL, leaving a 10 ft. setback.

General Criteria - Variance:

Under the provisions of Section 1-19-3.220(C) of the County Zoning Ordinance, the Board of Appeals shall not grant a variance unless and until a public hearing is held and all of the following criteria are met:

- (A) The Board of Appeals may authorize a variance in height, lot area and yard regulations.**

The Applicant is requesting a variance from the 'yard' regulations as listed under Section 1-19-6.100.

- (B) An application for a variance shall be filed with the Board of Appeals only after refusal of zoning approval or an adverse determination has been issued by the Zoning Administrator.**

The Applicant states that the Zoning Administration determined that the Applicant's proposed subdivision did not meet minimum building setback requirements as per Ordinance Section 1-19-6.100, and could not be approved in its proposed location.

- (C) The Board of Appeals shall not grant a variance unless and until a public hearing is held and all of the following criteria are met:**

The public hearing is scheduled for June 25, 2020 and maybe held as a Public Virtual Hearing Online.

- (1) First, the Board of Appeals shall find that special conditions and circumstances exist which are unique to the land or structure involved and which are not applicable to other lands or structures in the same district.**

The applicant states that this is a triangular shaped property which limits the area where I can place the structure. This is also the only level area of my lot where I can position this structure. My sisters and I are selling our adjacent family farm and I need this size of a barn for storing tools and equipment that are currently located in the family barn.

- (2) Upon making this finding the Board of Appeals shall also find that the following criteria are met:**

- (a) That the special conditions and circumstances do not result from the actions of the applicant; and**

The applicant states that due to my parcel panhandle "Right of Way" which I do not use, Frederick County considers the yard to the rear of my house to be my front yard. This creates a 40' BRL encumbering the ideal location for this structure. Staff notes that the recorded plat shows this area as his front yard as well as per the definition of "Front Lot Line".

- (b) **The literal interpretation of the provisions of this chapter would result in unreasonable hardship and deprive the applicant of rights commonly enjoyed by other properties in the same district under terms of this chapter; and**

The applicant states that should no variance be granted, there is no other reasonable location to place the storage building on this property. The triangular shape of the property also limits the location of where this structure can be located.

- (c) **That granting the variance will not confer on the applicant any special privilege that is denied by this chapter to other lands or structures in the same district; and**

The applicant states that a storage building in the Agricultural zone is not an unreasonable or a special request therefore is not granting him a special privilege.

- (d) **That the granting of the variance will be in harmony with the general purpose and intent of this chapter and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.**

The applicant states that the request is consistent with the Agricultural zoned properties and will not impact or be injurious to the neighborhood or detrimental to the public welfare.

- (D) **In granting the variance, the Board of Appeals may prescribe appropriate conditions and safeguards in conformity with this chapter. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, is a violation of this chapter.**

The applicant understands this.

- (E) **Under no circumstances shall the Board of Appeals grant a variance to allow a use not permissible under the terms of this chapter in the zone involved, or any use expressly or by implication prohibited by the terms of this chapter in said zone.**

The applicant understands this.

- (F) **Under no circumstances shall the Board of Appeals grant a variance to a nonconforming structure for the portion of structure determined by the Zoning Administrator to be nonconforming.**

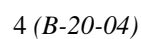
The applicant understands this.

- (G) **A decision of the Board of Appeals granting a variance will be void 2 years from date of approval by the Board of Appeals unless the use is established, a building permit is issued, construction has begun, or final site development plan approval has been received in accordance with the terms of the decision. Upon written request submitted to the Zoning Administrator no later than 1 month prior to the expiration date and for good cause shown by the applicant, a 1 time extension may be granted by the Zoning Administrator for a period not to exceed 6 months.**

The applicant understands this.

Actions Needed:

Structure Location



Notes:
 1. BEARINGS AND DISTANCES ARE IN AGREEMENT WITH A RECENT SURVEY BY FOX & ASSOCIATES, INC.
 2. VERTICAL DATUM BASED ON A SURVEY BY FOX & ASSOCIATES, INC. (ASSUMED).
 ZONING - "A" AGRICULTURE
Soil Types
 C&B CLAYSHIRE SILT (O&M LOCAL ALLUVIUM)
 C&D CLAYSHIRE CLAYSHIRE LOAM
 C&E CLAYSHIRE CLAYSHIRE LOAM

COORDINATES

NO.	NORTH	EAST
1.	4952.54	3376.644
2.	3355.013	3156.820
3.	3786.105	3489.703
4.	6763.232	3758.164
5.	6517.713	3278.774
6.	7088.710	4466.412
7.	7111.227	4908.550
8.	7111.058	4910.814
9.	7309.393	4949.723
10.	7085.419	4972.755
11.	7085.034	4933.860
12.	7081.190	4906.030
13.	7075.778	4870.326
14.	6512.960	4389.457
15.	6738.254	3768.915

VICINITY MAP SCALE 1"=2000'

DUCKADEWON ELECTION DISTRICT NO. 1 TAY MAP
 NO. 103 & 104 & NO. 105 & 106

Area Tabulation

TOTAL AREA OF LOTS 125,005 sq ft or 2.90 ac.
 AREA OF NEW DEDICATION 671 sq ft or 0.02 ac.
 TOTAL AREA INCLUDED IN THIS PLAN OF SUBDIVISION 124,334 sq ft or 2.88 ac.
 TOTAL NUMBER OF LOTS 1

SURVEYOR'S CERTIFICATE

I HEREBY CERTIFY THAT THE FINAL PLAT SHOWN HEREON IS CORRECT; THAT IT IS A SUB-DIVISION OF PART OF THE LANDS CONVEYED BY MARY STALEY, UNMARRIED, TO MARY M. MATOWICH AND MARGARET M. MATOWICH, HIS WIFE, BY DEED DATED APRIL 2, 1971, AND RECORDED IN LIVER BLS. FOLIO 111, AMONG THE LAND RECORDS OF PRINCEGEORGE COUNTY, MARYLAND; AND THAT THE LANDS SHOWN HEREON ARE THE SAME AS SHOWN ON THE PLAT OF SUBDIVISION OF THE LANDS OF MARY M. MATOWICH AND MARGARET M. MATOWICH, HIS WIFE, BY DEED DATED APRIL 2, 1971, AND RECORDED IN LIVER BLS. FOLIO 111, AMONG THE LAND RECORDS OF PRINCEGEORGE COUNTY, MARYLAND; AND THAT THE LANDS SHOWN HEREON ARE THE SAME AS SHOWN ON THE PLAT OF SUBDIVISION OF THE LANDS OF MARY M. MATOWICH AND MARGARET M. MATOWICH, HIS WIFE, BY DEED DATED APRIL 2, 1971, AND RECORDED IN LIVER BLS. FOLIO 111, AMONG THE LAND RECORDS OF PRINCEGEORGE COUNTY, MARYLAND; AND THAT THE LANDS SHOWN HEREON ARE THE SAME AS SHOWN ON THE PLAT OF SUBDIVISION OF THE LANDS OF MARY M. 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**Mark Matovich Jr.
Variance
B-20-04**

NOTE: All efforts have been made to ensure the accuracy of this map. However, County property is subject to change without notice. No warranty is made as to the accuracy of the map. The map is for informational purposes only and should not be used for any other purpose.

Aerial Photography: 2017
Date: 08/18/2020
Project No.: 1000000000
Community Development Division

13,800 0 160 320 Feet

