



THE COMMISSIONERS OF ST. MICHAELS

SETTLED 1670-1680

INCORPORATED 1804

BOARD OF ZONING APPEALS
300 MILL STREET
P.O. BOX 206
ST. MICHAELS, MD 21663

TELEPHONE: 410.745.9535

FACSIMILE: 410.745.3463

AGENDA

Monday, August 9, 2021
In Person & Virtual Meeting
5:30 PM
Subject to Change

- I. CALL TO ORDER

- II. NEW BUSINESS
BOZA-21-604: Variance to BOZA16-577 Decision. Application is for the amendment of a condition of exclusively residential use at 101 Conner Street, (Tax map 0200, parcel 1822) for owner Vincent DiGioia.

- III. MATTERS FROM THE COMMISSION AND STAFF

- IV. ADJOURNMENT

Virtual Meeting Information

Join meeting on computer or smart phone with video and audio on Zoom:

<https://us02web.zoom.us/j/3264261778>

Meeting ID: 326 426 1778

Join meeting by phone with audio only on Zoom:

1-301-715-8592

Meeting ID: 326 426 1778



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Property Owners: Vincent DiGioia
Applicant(s): Same
Case No.: BOZA-21-604
Property Location: 101 Conner Street, St. Michaels, MD
(Tax Map 0200, Parcel 1822)
Filing Date: June 25, 2021
Hearing Dates: August 9, 2021
Decision Date: September 9, 2021

OPINION AND DECISION

Chairman William C. Harvey presided over the hearing on August 9, 2021 which was an in person & virtual meeting held via Zoom. Members J. Douglas Rollow and Maurice Nelson were in attendance for the hearing. Applicant, Vincent DiGioia, was present via Zoom. Planning and Zoning Officer Kymberly Kudla and Communications Manager Kimberly Weller were also present at the hearing. The hearing commenced at 5:30 pm and concluded at 6:01pm.

I. Introduction

This case arises out of an Application for a decision amendment filed by Vincent DiGioia, property owner (the "Applicant"). Application No. 21-604 (the "Application") is for an amendment from a condition of exclusively residential use as placed in decision 16-577 for the property located at 101 Mitchell Street (Tax Map 200, Parcel 1822).

II. Jurisdiction

The Board of Zoning Appeals (the "Board"), pursuant to Town Code (the "Town Code"), Articles XII (Board Powers and Duties), is empowered, upon written application therefor, to authorize upon appeal in specific cases a variance from the terms of Chapter 340 of the Town Code. A public hearing must be held, and the Board must make findings that all the requirements of §340-136 have been met.

III. Board Exhibits

The following exhibits were admitted as part of the public record:

1. Variance Application, filed on 06/25/2021
2. Responses to variance request
3. Recording from October 11, 2016
4. BOZA16-577 Decision from November 14, 2016
5. Site Plan
6. Sarah Abel email from July 2016
7. Email chain from November/December 2017
8. TAC Meeting minutes from February 15, 2017
9. Staff report prepared by Planning and Zoning Officer, dated July 29, 2021
10. Written property excerpt from Maryland Department of Assessments and Taxation.
11. Notice of Public Hearing.
12. Certification of public notice publication dated July 30, 2021 and August 6, 2021.
13. List of adjacent property owners notified.
14. Affidavit of property posting.
15. Table permitted uses organizational example of before and after rewrite.
16. Comprehensive Plan existing and future land use map.

IV. Notice

A complete Application was filed on June 25, 2021 (Exhibit 1) with written testimony from the Applicant in response to §340-130 of the Town Code (Exhibit 2). Notice of the Public Hearing was published in the Star Democrat, a mid-shore periodical, on July 30, 2021 and August 6, 2021 (Exhibit 12). The Applicant also signed an Affidavit of property posting (Exhibit 14) on June 28, 2021. Chairman Harvey swore in Applicant. The Board confirmed that Members have visited the site. No additional exhibits or testimony were requested by the Board prior to the hearing.

V. Standards for granting of a Variance.

Chairman Harvey stated for the record that in order for the Board to grant a variance, the Application must satisfy the criteria in §340-136 of the Town Code, which requires:

- 1) Special conditions and/or circumstances exist which are peculiar to the land, structures or building involved that are not generally shared by other properties in the same zoning district or vicinity. Such conditions and/or circumstances may include but are not limited to the following: exceptional narrowness or shallowness or both, or irregular shape or topography of the property; unusual and limiting features of the building.
- 2) That such special conditions and/or circumstances noted above cause the strict enforcement of the zoning provision to impact disproportionately upon the property resulting in unnecessary and undue hardship. Hardship arises where property, due to unique circumstances applicable to it, cannot reasonably be adopted to use in conformity with the restrictions.

- 3) Such special conditions or circumstances must not be the result of any action or actions of the applicant.
- 4) Granting of the variance must be in harmony with the general purpose and intent of Chapter 340 and must not be injurious to adjacent property, the character of the neighborhood or the public welfare.
- 5) The variance granted must be the minimum necessary to afford relief.
- 6) That no nonconforming use of neighboring lands, structures, or buildings in the same zone, and no permitted use of lands, structures, or buildings in other zones shall be considered grounds for the issuance of a variance.

VI. Testimony

The Zoning Officer said she had no additional comments beyond her report, which was made a part of the record. Mr. DiGioia said the material presented in the record was sufficient and he had no other comments. Chairman Harvey clarified with Mr. DiGioia and Zoning Officer Kudla the applicant's variance request. Chairman Harvey then reviewed Mr. DiGioia's original 2016 application, opinion, and decision and provided a timeline of the changes in the Zoning Code affecting both submissions. The members had questions and comments. Chairman Harvey then clarified that the relief the applicant was seeking was the ability to apply for a short-term rental license for Lot 2, 101 Conner Street.

VII. Deliberation and Findings

Chairman Harvey closed the public portion of the meeting and called for discussion and deliberation. The members agreed that the variance was the proper remedy for the hardship created by the changes in the Code.

Decision

Chairman Harvey made a motion to approve the requested variance as set forth in BOZA Application No. 21-604 by amending Development Condition No. 2 in the Opinion and Decision in BOZA Case No. 16-577 to read as follows: "The permitted uses on the proposed Lot 2 shall include Short Term Rental as permitted by §340-73 of the Town Code." The motion was seconded by Member Rollow. There was no further discussion. Chairman Harvey called for a vote.

The vote was:

William C. Harvey Aye


J. Douglas Rollow Aye

Maurice Nelson Aye

The motion carried by vote of 3:0 in favor and the Board of Zoning Appeals hereby ORDERS that decision amendment Application BOZA-21-604 is hereby APPROVED.

Chairman Harvey and Members present submit and adopt this Written Opinion and Decision on the day 9 of September, 2021.

St. Michaels Board of Zoning Appeals



Chairman William C. Harvey

J. Douglas Rollow



Maurice Nelson

