

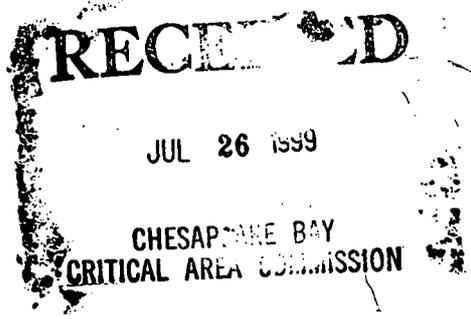
AA 258-99  
VAR

McCeney, Robert  
99-0210

MSA - 51829 - 110

HH  
NC  
5/12/99

258-99



IN THE OFFICE OF ADMINISTRATIVE HEARINGS

CASE NUMBER 1999-0210-V

---

IN RE: ROBERT McCENEY

SEVENTH ASSESSMENT DISTRICT

DATE HEARD: JULY 13, 1999

---

ORDERED BY: STEPHEN M. LeGENDRE, ADMINISTRATIVE HEARING OFFICER

ZONING ANALYST: PATRICIA A. MILEY

---

DATE FILED: JULY 20, 1999

## **PLEADINGS**

Robert McCeney, the applicant, seeks a variance (1999-0210-V) to permit an accessory structure with less setbacks than required and on a lot without a principal structure on property located along the northeast side of Clark Avenue, northwest of Melbourne Avenue, Deale.

## **PUBLIC NOTIFICATION**

The case was advertised in accordance with the provisions of the County Code. Glenda McCeney testified that the property was posted for 14 days prior to the hearing.

## **FINDINGS AND CONCLUSIONS**

The applicant owns unimproved property located at 618 Clark Avenue, in the subdivision of Owings Beach, Deale. The property comprises 3,918 square feet and is zoned R-5 residential with a Chesapeake Bay Critical Area designation as Intensely Developed Area (IDA). This is a nonwaterfront lot. The applicant seeks to construct a 34' X 20' X 21' open sided recreational vehicle port within 16 feet of the front property line and abutting the south side property line.<sup>1</sup>

The Anne Arundel County Code, Article 28, Section 10-106(b) prohibits an accessory structure without a principal structure. Section 2-507(a) requires

---

<sup>1</sup>The applicant owns the abutting property to the south, which is improved with his residence and a detached garage. The garage abuts the common property line.

accessory structures in the R-5 district to be located in the rear yard, or a side yard if screened from the road; at least 50 feet from the front lot line; and 10 feet from any side lot line. Accordingly, the proposal necessitates a variance to permit an accessory structure without a principal structure; a variance to permit an accessory structure in the front yard; and variances of 34 feet and 10 feet to the front and south side setbacks, respectively.

Patricia A. Miley, a zoning analyst with the Department of Planning and Code Enforcement, testified that the property is triangular in shape. She suggested that the two properties be combined, thereby eliminating the need for a variance to permit an accessory structure without a principal structure. This approach would also eliminate the need for the variance to the south side setback. In the circumstances, she questioned the hardship and opposed the request.

Ms. McCeney testified that the purpose of the proposal is to locate the recreational vehicle port close to the garage. Her husband is reluctant to combine the lots because of the potential for an increase in the real property taxes. According to the witness, the lot is too small to support a dwelling. She further indicated that the proposal will have little impact to surrounding properties. There was no public opposition to the request.

The standards for granting variances are contained in Section 11-102.1. Under subsection (a), a zoning variance may be granted only after determining either (1) unique physical conditions, peculiar to the lot, such that there is no reasonable possibility of developing the lot in strict conformance with the code; or

(2) exceptional circumstances such that the grant of a variance is necessary to avoid an unnecessary hardship, and to enable the applicant to develop the lot. Under subsection (c), any variance must be the minimum necessary to afford relief; and its grant may not alter the essential character of the neighborhood, substantially impair the appropriate use or development of adjacent property, or be detrimental to the public welfare.

Upon review of the facts and circumstances, I find and conclude that the applicant is entitled to conditional relief from the code. This case satisfies the test of unique physical conditions, consisting of a small, triangular site, such that there is no reasonable possibility of developing the lot in strict conformance with the code. Indeed, the site has little utility, other than to house an accessory structure. With the construction of the recreational vehicle port, the two adjoining lots will function as a unit, despite their common boundary line. To insure that the justification for the variances is not defeated, the approval shall lapse at such time as the property is developed with a principal use. There was nothing to suggest that the granting of the variance will alter the essential character of the neighborhood, substantially impair the appropriate use or development of adjacent property, or be detrimental to the public welfare.

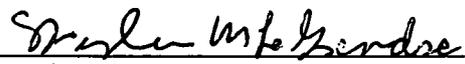
### **ORDER**

PURSUANT to the application of Robert McCeney, petitioning for a variance to permit an accessory structure with less setbacks than required and on a

lot without a principal structure; and

PURSUANT to the advertising, posting of the property, and public hearing and in accordance with the provisions of law, it is this 20<sup>th</sup> day of July, 1999,

ORDERED, by the Administrative Hearing Officer of Anne Arundel County, that the applicant is hereby **granted** a variance to permit a 24' X 20' X 21' open sided recreational vehicle port without a principal use and in the front yard, within 16 feet of the front property line and zero feet of the south side property line. *The foregoing variance is subject to the condition that the variance shall expire in the event the property is developed with a principal use.*

  
Stephen M. LeGendre  
Administrative Hearing Officer

#### **NOTICE TO APPLICANT**

Within thirty (30) days from the date of this Decision, any person, firm, corporation, or governmental agency having an interest therein and aggrieved thereby may file a Notice of Appeal with the County Board of Appeals.

Further, Section 11-102.2 of the Anne Arundel County Code states:

A variance granted under the provisions of this Article shall become void unless a building permit conforming to the plans for which the variance was granted is obtained within one year of the grant and construction is completed within two years of the grant.

If this case is not appealed, exhibits must be claimed within 60 days of the date of this order, otherwise they will be discarded.



Judge John C. North, II  
Chairman

Ren Serey  
Executive Director

**STATE OF MARYLAND  
CHESAPEAKE BAY CRITICAL AREA COMMISSION**

45 Calvert Street, 2nd Floor, Annapolis, Maryland 21401  
(410) 260-7516 Fax: (410) 974-5338

May 12, 1999

Mr. Kevin Dooley  
Anne Arundel County Department of Planning and Code Enforcement  
2664 Riva Road, MS 6301  
Annapolis, Maryland 21401

Re: Robert McCeney  
1999-0210-V

Dear Mr. Dooley:

I have received the above-referenced request to permit a carport that will require less setbacks than required and on a lot without a principal structure. This office has no comment regarding either issue. However, the subject lot is mapped as an Intensely Developed Area and therefore is required to meet the 10% Pollutant Reduction Rule. On a lot of this size, native plantings would be acceptable.

Thank you for the opportunity to comment. Please include this letter in your file and submit it as part of the record for variance. Please notify the Commission of the decision made in this case.

Sincerely,

Lisa A. Hoerger  
Planner

cc: AA 258-99

Branch Office: 31 Creamery Lane, Easton, MD 21601  
(410) 822-9047 Fax: (410) 820-5093



