



TOWN OF OCEAN CITY

The White Marlin Capital of the World

BOARD OF ZONING APPEALS AGENDA

Thursday, April 11, 2024

6:00 p.m.

Meetings are held in the Council Chambers of City Hall located at 301 Baltimore Avenue, Ocean City, Maryland.

I. Administrative Matters

- a. Approval of the minutes from the March 28, 2024 meeting
- b. Approval of the Findings of Fact for BZA Case 2681 (White Marlin Condominiums c/o Mann Properties, Inc.)
- c. Approval of the Findings of Fact for BZA 2682 (Mark Drexel)

II. Public Hearings

at 6:00 p.m.

Pursuant to the provisions of Section 110-93(2), Powers of the Code, an appeal of Sections 110-94(3)(a) and 110-94(3)(c) has been filed to request (1) a special yard exception from the western side yard for a proposed dwelling to be 0.69 feet from the side property site line; and, (2) a special yard exception from the front yard for a proposed dwelling to be 0.34 feet from the front property site line. The site of the appeal is described as Lot 24A, Section A, of the Warren's Park Co-op Plat. It is further described as being located on the south side of Middle Way Lane and is locally known as 47 Middle Way Lane, in the Town of Ocean City, Maryland.

APPLICANT: CINDY FRIDLEY (BZA 2683 #24-09400006)

at 6:10 p.m.

Pursuant to the provisions of Section 110-93(2), Powers of the Code, an appeal of Sections 110-94(3)(a) and 110-94(2)(b) has been filed to request (1) a special yard exception from the front yard to build upon an existing dwelling that has a legally nonconforming front yard setback of 8 feet, rather than 10 feet required by Code; and (2) a special parking exception to waive 0.5 (1) parking space from the required three (3) parking spaces. The site of the appeal is described as Lot 7 of the plat entitled "Beach Village – Ocean City, Worcester County, Maryland". It is further described as being located on the east side of Wight Street and is locally known as 14022 Wight Street, in the Town of Ocean City, Maryland.

APPLICANT: ROBERT WRIGHT AND TERESA RODRIGUEZ-WRIGHT (BZA 2684 #24-09400007)

III. Additional Business

Discussion on the use of docusign for the adoption of Findings of Fact

MAYOR
RICHARD W. MEEHAN

CITY COUNCIL

MATTHEW M. JAMES
President

ANTHONY J. DELUCA
Secretary

PETER S. BUAS
JOHN F. GEHRIG, JR.
J. FRANKLIN KNIGHT
CAROL L. PROCTOR
WILLIAM C. SAVAGE III

CITY MANAGER
TERENCE J. MCGEAN, PE

CITY CLERK
DIANA L. CHAVIS, MMC

**BOARD OF ZONING APPEALS
MINUTES
TOWN OF OCEAN CITY, MARYLAND**

**Meeting of
Thursday, March 28, 2024**

ATTENDEES:

Members

Christopher Rudolf, Chair
John Moran
Brian Shane
Dan Stevens

Staff

Chase Phillips, Zoning Analyst
Kay Gordy, Zoning Administrator
George Bendler, AICP, Director
Maureen Howarth, Board's Attorney

The meeting was called to order at 6:00 p.m., and it occurred at City Hall located at 301 Baltimore Avenue in the Town of Ocean City, Maryland.

6:00 PM

I. Administrative Matters

Minutes and Findings of Fact

The Board reviewed the minutes from the March 14, 2024, meeting.

Motion/ John Moran **Second/** Dan Stevens to approve the minutes from the March 14, 2024, meeting. The motion passed (3-0-1), with one abstention from Brian Shane.

The Board reviewed the Findings of Fact for BZA Case 2678 (Jason Miller).

Motion/ Dan Stevens **Second/** John Moran to approve the Findings of Fact for BZA Case 2678 (Jason Miller). The motion passed (3-0-1), with one abstention from Brian Shane.

The Board reviewed the Findings of Fact for BZA Case 2679 (Joseph Moore, Esquire, Atty. for 601 Atlantic, LLC, 605 Atlantic, LLC & SAS Partnership, LLC).

Motion/ Dan Stevens **Second/** John Moran to approve the Findings of Fact for BZA Case 2679 (Joseph Moore, Esquire, Atty. for 601 Atlantic, LLC, 605 Atlantic, LLC & SAS Partnership, LLC). The motion passed (3-0-1), with one abstention from Brian Shane.

The Board reviewed the Findings of Fact for BZA Case 2680 (JDACAI Ocean City, LLC).

Motion/ John Moran **Second/** Dan Stevens to approve the Findings of Fact for BZA Case 2680 (JDACAI Ocean City, LLC). The motion passed (3-0-1), with one abstention from Brian Shane.

II. Public Hearings

At 6:00 p.m.

Pursuant to the provisions of Section 110-93(3), Powers of the Code, an appeal of Section 110-95(1)(a) has been filed to request a variance of 10 feet from the 10-foot front yard setback for a proposed pavilion to be 0.0 feet from the front property line.

The site of the appeal is described as Tax Map 110, Parcel 2501, and as the plat entitled “White Marlin Condominium”. It is further described as being located on the south side of Somerset Street and is locally known as 205 Somerset Street, in the Town of Ocean City, Maryland.

APPLICANT: WHITE MARLIN CONDOMINIUMS C/O MANN PROPERTIES, INC. (BZA 2681 #24-0950002)

Chase Phillips, Zoning Analyst, presented this case to the Board. This presentation included a summary of the request, the staff report and staff exhibits, and code analysis. It was stated that this application complies with local and state noticing requirements.

Mr. Thomas Bowden, contractor and representative of the applicant, was sworn in. He presented the design for the pavilion, provided reasons as to why the pavilion should be granted a variance, and presented photos of the site.

No persons were present during this hearing to provide public testimony.

The Board did not find that the criteria needed to grant a variance were met.

Motion/ John Moran **Second/** Dan Stevens to deny the variance request for the proposed pavilion. This motion passed unanimously (4-0-).

AT 6:20 PM

Pursuant to the provisions of Sections 110-93(2) and 110-93(3), Powers of the Code, an appeal of Sections 110-94(3)(a) and 110-95(1)(a) has been filed to request (1) a special yard exception from the 5-foot rear yard setback for a proposed dwelling to be 0.39 feet from the rear lot line; and (2) a variance of 6.88 feet from the 10-foot separation distance requirement for a proposed deck to be 3.12 feet from a neighboring dwelling. The site of the appeal is described as Lot 2B, Section B, of the Warren’s Park Co-op Plat. It is further described as being located on the north side of Middle Way Lane and is locally known as 22 Middle Way Lane, in the Town of Ocean City, Maryland.

APPLICANT: MARK DREXEL (BZA 2682 #24-09400005)

Chase Phillips, Zoning Analyst, presented this case to the Board. This presentation included a summary of the request, the staff report and staff exhibits, and code analysis. It was stated that this application complies with local and state noticing requirements. Mr. Phillips specified the types of requests made and the context to how these requests relate to Warren’s Park at large.

Mr. Mark Drexel, property owner and applicant, was sworn in. He presented the history of the property and context to the requests. Mr. Donald Jenkins, resident of Warren’s Park, spoke on this matter as well. It testified by both Mr. Drexel and Mr. Jenkins that the 4 neighbors surrounding the subject site expressed no objection to the proposal.

No persons were present during this public hearing to provide public testimony.

The public hearing was closed and was reopened so Mr. Phillips could make one important consideration regarding Building Code requirements for steps and landings. Mr. Rudolf, Chairman, then reclosed the public hearing.

The Board found that the criteria to grant a special yard exception were met. They did not find that the criteria needed to grant a variance were met.

Motion/ John Moran **Second/** Brian Shane to approve the special yard exception for the proposed dwelling. This motion passed unanimously (4-0-).

Motion/ John Moran **Second/** Dan Stevens to deny the variance request for the proposed deck. This motion passed unanimously (4-0).

Chairman Rudolf entertained a motion to adjourn.

Motion/ Brian Shane **Second/** John Moran to adjourn. This motion passed unanimously (4-0).

The meeting adjourned at 7:04 p.m.

Approval of Minutes

Christopher Rudolf, Chairman

Date

TOWN OF OCEAN CITY
BOARD OF ZONING APPEALS

Findings of Fact

Meeting of March 28, 2024

APPLICATION: **BZA 2681 (24-09500002)**

APPLICANT: **White Marlin Condominiums**
 c/o Mann Properties, Inc.
 220 16th Street
 Ocean City, Maryland 21842

SUBJECT SITE: **205 Somerset Street**
 Ocean City, Maryland 21842

Opinion

A hearing was held before the Town of Ocean City Board of Zoning Appeals (hereinafter “Board”) on March 28, 2024, at 6:10 p.m. for the application of White Marlin Condominiums c/o Mann Properties, Inc. (hereinafter “Applicant”) (BZA 2681, File #24-09500002). Pursuant to Town Code Section 110-95(1)(a), the Applicant requested a variance of 10 feet from the 10-foot front yard setback for a proposed pavilion to be 0.0 feet from the front property line.

The site of the appeal is described as Tax Map 0110, Parcel 2501, and as the plat entitled “White Marlin Condominiums.” It is further described as being on the south side of Somerset Street and is locally known as 205 Somerset Street in the Town of Ocean City, Maryland.

Chase Phillips, Zoning Analyst, was sworn in and presented the staff report with exhibits (Staff Exhibit #1, Pages 1 and 2). He stated the property is within the Downtown Marine (DM) Zoning District, and there is a Downtown Design Overlay Zoning District that applies to this property. He informed the Board that Section 110-95(1)(a) authorizes the Board to hear and decide

on requests for variances to minimum yard requirements and that Section 110-905 does not allow for accessory structures to encroach upon a front yard. In this case, there is a front yard setback of 10 feet from the property line that runs along Somerset Street. He added that Maryland courts have recognized a two-part test for local authorities to grant variances and that this test relies upon an applicant proving the uniqueness of a property and how that uniqueness creates practical difficulty, as stated in the staff report. Mr. Phillips informed the Board that this application complies with the noticing requirements of local and state law. He assured the Board that the pavilion will be against the wooden wall that holds the electrical panel, but it will not extend over the property line or into the public right-of-way. He also stated that the pavilion is intended to protect the electrical panel but also provide cover for the patio and picnic table that also exist there.

The Applicant's Case

Mr. Thomas Bowden, contractor and representative of the Applicant, was sworn in and testified the following:

- 1) He is the contractor for the White Marlin Condominium which is managed by Mann Properties and is authorized by the Board of the Condominium to seek the variance.
- 2) The subject site is on the north side of the marina, and a separate meter stack (electrical panel) exists on the south side of the marina. The previous meter stack on the south side shorted out last year because of the elements, so the condominium has approved and wants a protective shelter to be constructed around this one. A closet has been built for the south side meter stack.
- 3) The electrical panel that is on the north side exists along the property line. Applicant Exhibit #3 was utilized to show the picnic table, patio, and electrical panel wall.
- 4) There is no way to shield the electrical panel as it exists in the no build zone.
- 5) There will be no overhang over the side or encroachment into the public right-of-way.
- 6) There will be two wing walls to help protect the meter stack.
- 7) The electrical panel is 14 feet wide, so there would need to be a series of doors to properly access the panel. There would be a 4-foot swing of the doors. [MHE1][MHE2] There is a cement pad in front of this electrical panel with a wooden picnic table on it. There is difficulty because the heavy wooden picnic table would need to be moved each time the electrical panel needed to be serviced if there was a closet put around the electrical panel.

Mr. Dan Stevens asked about the wing walls and if they would truly serve its purpose of protecting the panel given the way wind typically blows. Mr. Bowden testified there will be a roof and wing walls to shield the panel from east and west winds. The wind that poses more impact are typically the northeastern winds. The wing walls will be 2 feet (24 inches). Mr. Stevens asked why the contractor is not installing a closet like on the south side. Mr. Bowden testified that meters are generally read remotely but if a meter reader came and was by himself, he would have hard time moving the picnic table to get access to the electrical panel. Mr. Bowden said he was thinking about aesthetics as well as functionality.

Mr. John Moran asked if the Applicant has considered moving the picnic table. Mr. Bowden stated the concrete slab was for the picnic table so the purpose of the pavilion is to keep the picnic table in its current place. Mr. Bowden acknowledged the picnic table could be moved to the grass.

Mr. Brian Shane asked about the pavilion being classified as an accessory structure. Mr. Phillips stated that it is an accessory structure because of the size and its use for residents and persons using the marina. He asked if a variance application would be necessary if the structure only served the purpose of protecting the electrical panel. Mr. Phillips stated it is unclear how the Zoning Administrator may classify and apply setbacks if the structure only served the purpose of protecting the electrical panel. He stated there is, in theory, the potential for this type of structure to be classified as being part of the utility.

Mr. Phillips stated that Critical Area regulations prohibit impervious surface along the strip of yard that exists between the marina and Somerset Street.

Public Comment

No one was present to provide public testimony.
No other agencies provided comment on this application.

No written comments were received by the Department of Planning and Community Development.

Findings of Fact

The Board, based upon the testimony and evidence presented, finds that:

- 1) That there was no testimony about the shape of the property. There is no unique feature of this property that would explain how the Code would disproportionately affect this property versus surrounding properties.
- 2) The pavilion will not protect the electrical panel like a cabinet would and the pavilion is not necessary for the electrical panel. The pavilion would leave the panel open to south winds.
- 3) There are alternatives available to protect the electrical panel.
- 4) The difficulty stated relates to the picnic table on the concrete slab. The picnic table is not a difficulty with the property. The picnic table can be relocated to accommodate a cabinet style structure for the electrical panel. The picnic table is not a legitimate feature of uniqueness.
- 5) No practical difficulty exists in the request for this variance.

Conclusion

After closing the hearing, the Board deliberated and based upon the evidence and testimony presented and their findings, Mr. John Moran made a motion to deny the request for a variance of 10 feet from the 10-foot front yard setback for a proposed pavilion to be 0.0 feet from the front property line. This was seconded by Dan Stevens. The motion passed unanimously (4-0).

Approval of Findings

Christopher Rudolf, Chairperson

John Moran

Brian Shane

Dan Stevens

TOWN OF OCEAN CITY
BOARD OF ZONING APPEALS

Findings of Fact

Meeting of March 28, 2024

APPLICATION: **BZA 2682 (24-09500005)**

APPLICANT: **Mark Drexel**
 5250 Wasena Avenue
 Baltimore, Maryland 21225

SUBJECT SITE: **22 Middle Way Lane**
 Ocean City, Maryland 21842

Opinion

A hearing was held before the Town of Ocean City Board of Zoning Appeals (hereinafter “Board”) on March 28, 2024, at 6:20 p.m. for the application of Mark Drexel (hereinafter “Applicant”) (BZA 2682, File #24-09500005). Pursuant to Town Code Sections 110-94(3)(b) and 110-95(1)(a) the Applicant made requests for (1) a special yard exception from the rear yard setback for a proposed dwelling to be 0.39 feet from the rear property line; and (2) a variance of 6.88 feet from the 10-foot separation distance requirement for a proposed deck to be 3.12 feet from a neighboring unit.

The site of the appeal is described as Lot 2B, Section B, of the Warren’s Park Co-op Plat. (hereinafter “the Property”). The Property is further described as being on the north side of Middle Way Lane and is locally known as 22 Middle Way Lane, in the Town of Ocean City, Maryland. The Property is within the Mobile Home (MH) Residential Zoning District.

Chase M. Phillips, Zoning Analyst, was sworn in and presented the staff report with exhibits (Staff Exhibit #1 Pages 1 and 2). Mr. Phillips presented the Board with the applicable sections of the Zoning Code of the Town of Ocean City. Section 110-94, entitled Special Exceptions, authorizes the Board to grant special yard exceptions if they do not substantially affect adversely the uses of adjacent or neighboring properties. Section 110-95, entitled Variances, allows the Board to hear and decide upon requests for variances. He added that Maryland courts have recognized a two-part test for local authorities to grant variances and that this test relies upon an applicant proving the uniqueness of a property and how that uniqueness creates practical difficulty, as stated in the staff report. It was confirmed that this application complies with local and State noticing requirements.

Mr. Phillips stated Warrens Park is a high-density mobile home park and most units have some non-conformity. Mr. Phillips specified that the special yard exception from the rear yard could accommodate a dwelling that is 0.39 feet from the rear Property site line. It will go no further into the rear yard than other dwellings on that block. Additionally, he stated that a deck is considered an extension of the mobile home; therefore, the Code would ordinarily need to be 10 feet from the neighboring unit. It is proposed to be 3.12 feet.

The Applicant's Case

Mr. Mark Drexel, Applicant, and Mr. Donald Jenkins, Ocean City Resident, were sworn in and Mr. Drexel testified to the following:

- 1) He inherited the property that currently has a 1966 mobile home that needs major repair.
- 2) Clayton homes has constructed the new modular home.
- 3) The home placement has been configured to accommodate the required 2 entry ways into the home so that the access does not impact the required parking.
- 4) None of the 4 neighbors around this property have expressed any objection to this proposal. This includes neighbors on the side.

Mr. Jenkins reiterated none of the neighbors have an issue with the request. Mr. Dan Stevens asked about the width of the addition that is on the existing mobile home. Mr. Phillips stated that the current width is 6.5 feet, and the proposed deck is 8 feet wide. He stated that Building Code requires a certain width for any landing that supports access to the home.

Mr. John Moran asked about the existing separation distance from the mobile home to the neighboring unit is 9.24 feet. Mr. Phillips confirmed this is correct, with the exception of the shed that is 0.42 feet from the property site line in one place.

Public Comment

No members of the public were present to provide testimony.
No other agencies provided comment on this application.
No other comments were received by the Office of Planning and Community Development.

Findings of Fact

The Board, based upon the testimony and evidence presented, makes the following findings of fact:

- 1) This special yard exception request is appropriate for this location as there is no evidence that it will pose adverse impact to adjacent or neighboring properties. The Applicant testified that 4 adjacent property owners were notified of the proposal, and none of the 4 residents expressed any objection.
- 2) In reference to the variance request, there could be elements of uniqueness given the extent of legal nonconformity that exists in Warren's Park at large. However, this lot is not unique to any of the other individual lots. In looking at the map exhibit, all lots have a trapezoid shape.

- 3) In reference to the variance request, there is no practical difficulty because an alternative of a walkway could still allow for access to the home, and this would maintain more of a separation than the full deck that is proposed. The applicant is here asking for the variance because he wants a deck.
- 4) In reference to the variance request, there are clear alternatives to a deck. Additionally, the testimony was the mobile home has already been manufactured, thus the applicant is coming to the Board after the fact. The property is not unique as to the neighboring properties and there is no practical difficulty as to the deck.

As the Board deliberated, the Chairman reopened the public hearing so Mr. Phillips could state that Building Code requires a landing of 3 feet if this landing is used for access to the building. No other testimony was provided during this time. The hearing was then closed again

Conclusion

Based on the evidence and testimony presented and the Board's findings, John Moran duly made a motion to approve the special yard exception from the rear yard for a proposed dwelling to be 0.39 feet from the rear property site line. This was seconded by Dan Stevens. The motion passed unanimously (4-0).

Based on the evidence and testimony presented and the Board's findings, John Moran duly made a motion to deny the variance request of 6.88 feet from the 10-foot separation distance requirement for a proposed deck to be 3.12 feet from the neighboring unit. This was seconded by Dan Stevens. This motion passed unanimously (4-0).

Approval of Findings of Fact

Christopher Rudolf, Chairperson

Brian Shane

Dan Stevens

John Moran