



BOARD OF APPEALS

MINUTES OF THE BOARD OF APPEALS BOA CASE #2024-01 PATUXENT PROPERTY PURCHASERS LLC APRIL 8, 2024

- I. The hearing was opened at 7:00 p.m. by Chair Jody Hoon-Starr. In attendance were Chair Hoon-Starr, Richard Burch, Paul Doherty, and Amy Everett, Board Members, Sharon L. Humm, Board Clerk, Sarah Franklin, Town Planner, and Fred Sussman, Board Counsel. Absent was Stephen Sharp, Board Member.

Chair Hoon-Starr opened the hearing up with roll call, confirming a quorum. The Chair indicated tonight's hearing is an appeal on a Decision on Interpretation or Alleged Error.

The Applicant will provide testimony contending a misinterpretation or alleged error by the Zoning Administrator has occurred per the zoning code, noting the specific sections within that code.

II. **Board of Appeals Case #2024-01 – Patuxent Property Purchasers, LLC, 4011 14th Street, Chesapeake Beach, MD 20732.**

To consider an application from Patuxent Property Purchasers, LLC, c/o Carl Buchheister, who is the owner of real property known as 4011 14th Street, Chesapeake Beach, MD, for a Decision on Interpretation or Alleged Error to Article V, Section 290-20-Parking and Loading, (A). General regulations applying to required off-street parking facilities, (7) Location of parking space.

The Applicant is requesting of the Chesapeake Beach Zoning Board of Appeals, a variation from the requirements of 290-20(A)(7), restricting parking within the front setback for private residences."

Board Clerk read into the record case publication details.

The following exhibits were entered into the record.

Submitted into the record as **Exhibit 1** - Publication Affidavit

Submitted into the record as **Exhibit 2** - Applicant's application and supporting documents.

Submitted into the record as **Exhibit 3** - Two photographs of property, Settlement Statement and a rental inspection report dated December 15, 2023.

Submitted into the record as **Exhibit 4** – Town Planner's Staff report.

Submitted into the record as **Exhibit 5** – Public Comment from Judy Mahoney.

The Applicant, Mr. Buchheister, presented his case. Mr. Buchheister stated the property, when he purchased it, was very unappealing. In the front of the house the small yard consisted of cracked up concrete with a small patch of grass. Putting down stone where the concrete was allowed for a better look, and also could serve as a parking pad for his tenants. The block of houses on the street all have on-street parking but one, which has a driveway. His house is a two-bedroom but looks to have only room enough for one car to park in front of the house. He also thought with the ability to park off-street it could avoid any parking conflict that might arise. Right now, the tenant has one car but in the future that could turn into several vehicles needing to park. Mr. Buchheister addressed several questions from the Board.

Town Planner Ms. Franklin briefly summarized her staff report for the Board. She stated that the Applicant requested an after-the-fact permit for stone he had placed in the front setback of the property. Mr. Buchheister also applied for a rental license and during that rental inspection, a violation of the zoning code was noted that the yard and vegetation had been removed and replaced with the stone. This property is located in the critical area and is designated as IDA. As a requirement of permits granted in the IDA of the critical area is that the water quality of stormwater runoff is improved by 10% over the pre-development state. The change made to this site reduces the quality and increases the quantity of stormwater runoff from the site. In reviewing the code regulations, Ms. Franklin could not find any exceptions to Mr. Buchheister's request for the front setback parking. So, the permit was denied with regard to Section 290-20(A)(7) which prohibits parking in the front setback area of a residential lot. Ms. Franklin recommends the Board deny the appeal as she believes there was no error in the decision.

Chair Hoon-Starr called for public comment.

Public testimony was received by the following:

1. Kathleen Berault, 7409 B Street, spoke in opposition of the appeal on interpretation or alleged error. She believes granting the relief being requested would impact the neighborhood in a negative way.
2. Judy Mahoney of 4004 14th Street submitted a written comment also in opposition to the granting of the request.

There being no further comments Chair Hoon-Starr entertained a motion to close the hearing at 7:28 p.m. for Board deliberation. So moved by Ms. Everett, seconded by Mr. Doherty, all in favor.

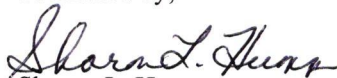
After deliberations, the Board made the following decision:

MOTION: Chair Hoon-Starr moved denial on the request for Decision on Interpretation or Alleged Error. The Board were all in favor.

Chair Hoon-Starr directed Counsel to prepare a draft resolution of findings of fact and conclusions of law for the Board's review and formal approval.

There being no further comments, the hearing adjourned at 7:43 p.m. on a motion by Mr. Doherty. Seconded by Mr. Burch, all in favor.

Submitted by,


Sharon L. Humm
Board Clerk

For complete detailed findings of fact and conclusions of law see attached Resolution Decision.

BOARD OF APPEALS OF CHESAPEAKE BEACH, MARYLAND

**A RESOLUTION DENYING AN APPEAL OF AN INTERPRETATION OF
SECTION 290-20.A.(7) OF THE CHESAPEAKE BEACH ZONING
ORDINANCE THAT PROHIBITS THE LOCATION OF OFF-STREET
PARKING SPACES IN A REQUIRED FRONT SETBACK AT 4011 14TH
STREET IN CHESAPEAKE BEACH, MARYLAND**

Case No. 2024-1

RECITALS

WHEREAS, on or about February 15, 2024, the Applicant, Carl Buchheister ("Applicant"), on behalf of the property owner, Patuxent Property Purchasers, LLC ("Owner"), submitted an application (the "Application") for an appeal of a determination by the Zoning Administrator that denied a Zoning Permit for the installation of two gravel off-street parking spaces in the front setback of the property at 4011 14th Street in Chesapeake Beach, Maryland (the "Property"); and

WHEREAS, the Board of Appeals of Chesapeake Beach, Maryland (the "Board") conducted a public hearing regarding the Application on April 8, 2024; and

WHEREAS, notice of the April 8, 2024, public hearing was properly given as follows:

- A. By publication in the Southern Maryland News newspaper on March 22 and 29, and April 5, 2024;
- B. By transmitting to the Chesapeake Beach Planning Commission on February 27, 2024;
- C. By mailing to the Applicant and adjoining property owners on March 8, 2024; and
- D. By posting on the Property in a conspicuous manner on March 15, 2024; and

WHEREAS, the Applicant appeared before the Board at the April 8, 2024, public hearing; and

WHEREAS, at the public hearing, the Board received a March 18, 2024, Memorandum from the Town Planner Sarah Franklin, and heard testimony from the Applicant, Ms. Franklin, and a nearby resident, Kathleen Berault. No other persons were present to be heard although one neighbor, Judy Mahoney, submitted a letter opposing the application; and

WHEREAS, the following exhibits were submitted and considered by the Board at the public hearing:

- A. An Affidavit attesting to compliance with public notice requirements;

- B. The Application with supporting drawings prepared by or for the Applicant;
- C. Several photographs and a rental inspection report submitted by the Applicant;
- D. Town Planner Sarah Franklin's March 18, 2024, Memorandum; and
- E. A March 24, 2024, letter from Judy Mahoney; and

WHEREAS, the Board carefully considered all of the evidence and testimony provided, and the applicable provisions of the Zoning Ordinance. On April 8, 2024, the Board tentatively voted to deny Applicant's request for an appeal and interpretation of the Zoning Administrator's determination that Section 290-20.A.(7) prohibits the location of off-street parking in the required front setback. This Resolution finalizes and explains the Board's reasons for its decision.

DECISION

NOW, THEREFORE, BE IT RESOLVED by the Board of Appeals of the Town of Chesapeake Beach, Maryland, that the Board hereby makes and adopts the following findings of fact and conclusions of law in Case No. 2024-01:

- A. The Recitals to this Resolution are hereby adopted and incorporated into these findings, as if each were a separate finding of the Board.
- B. The Property is owned by Patuxent Property Purchasers, LLC. Carl Buchheister is its agent.
- C. The Property is zoned Residential Medium Density (R-MD). The minimum lot size in the R-MD District is 7,500 square feet, and a 15-foot front setback area is required.
- D. The Property is located on the south side of 14th Street and consists of a single lot that has an area of 2,511 square feet, nearly 5,000 square feet less than required. According to the Applicant, the Property has a front setback depth of approximately eight to nine feet, six to seven feet less than required.
- E. The Property is part of a pre-zoning subdivision of 25' wide lots and is improved by a small single-family home with no off-street parking. The Property, like several other properties in the block, has no on-site parking because of the small sizes of the lots. Parking for these lots is available on the street. None of the other lots on the block have on-site parking located in the front setback area.
- F. Section 290-20.A.(7) of the Town Zoning Ordinance prohibits parking in the front setback area of a residential lot. That Section provides:

Required off-street parking spaces shall be on the same lot or premises with the principal use served or, where this requirement cannot be met, within 400 feet of the principal use served within the same district or on a lot abutting a Commercial District subject to the requirements of Article III, § 290-9. **Parking for private residences in residential districts shall not be located within the front setback area between the**

principal structure and the street. A parking space in a garage or enclosed carport shall not be counted toward complying with the parking requirement for residential dwellings.

(Emphasis added).

G. Town staff noted that a small concrete pad and vegetation in the front setback area had been removed and replaced with stone. Based upon photographic evidence, this likely occurred after the Owner purchased the Property in October, 2023.

H. On November 20, 2023, the Owner requested an after-the-fact Zoning Permit for three tons of ¾-inch white stone it had placed in the front setback area of the Property with the intent of creating two off-street parking spaces for occupants of the Property. Town staff noted the violation of the Zoning Ordinance when the Owner requested a rental license for the property. The Zoning Permit was denied.

I. Section 290-32.E. of the Zoning Ordinance provides:

E. Powers and duties regarding interpretation. Upon appeal from a decision of the Administrator ... the Board shall decide any question:

(1) Involving the interpretation of any provisions of this chapter ...; and

(2) Where it is alleged, there is an error in any order, requirement, decision, or determination ... made by the Administrator in the enforcement of this chapter
....

J. Section 290-32.J.(2) requires that appeals concerning the interpretation of any provision of this chapter shall exactly set forth the interpretation that is claimed."

K. As set forth in the appeal application, Applicant's explanation of the decision or error appealed from stated as follows: "Applicable Section of Zoning Ordinance A-7. Location of parking space. Owner recently purchased and renovated property. There is no parking space. Tenant parks on street."

L. The Town Planner's Staff Report analyzed other provisions of the Zoning Ordinance and concluded that no other provisions exist that would allow the front setback area parking requested by Applicant.

M. One nearby resident, Kathleen Berault, testified that she passes by the Property every day and has never noticed people parking in the front setback area of other homes located in the vicinity of the Property. No other members of the public spoke or appeared in favor of or in opposition to the application.

N. However, one neighbor who lives across the street from the Property, Judy Mahoney, submitted a letter to the Board opposing the application. Ms. Mahoney explained that she has lived

across 14th Street from the Property for 30 years, and not once during that period of time has an occupant of 4011 14th Street been unable to parallel park in front of the Property along 14th Street, and allowing parking in the front setback area would change the character of the neighborhood, give the neighborhood a deteriorating look, and harm nearby residents.

O. The Board concludes that the zoning permit requested by the Applicant was properly denied and no legal justification exists for allowing Applicant's appeal and the interpretation of Section 290-20.A.(7) of the Zoning Ordinance sought by the Applicant.

BE IT FURTHER RESOLVED by the Board of Appeals of Chesapeake Beach, Maryland, that the relief sought in Case No. 2024-01, *i.e.*, for an interpretation of Section 290-20.A.(7) of the Town of Chesapeake Beach Zoning Ordinance that would allow two gravel off-street parking spaces in the required front setback area for the property at 4011 14th Street in Chesapeake Beach, Maryland, is hereby DENIED.

AS CERTIFIED by the signatures below, the members of the Board affirm that a public hearing was held on April 8, 2024. After the public hearing on April 8, 2024, the Board voted to deny the Application subject to the preparation and approval of this Resolution. The Board ratifies and approves the adoption of this Resolution this 1st day of May, 2024. This Resolution becomes effective upon its adoption.


BOARD OF APPEALS OF
CHESAPEAKE BEACH, MARYLAND


Jody Hoon-Starr, Chairperson


Paul Doherty, Vice Chairperson


Richard Burch, Member


Amy Everett, Member


Sharon Humm
Secretary to the Board