

BOARD OF APPEALS

September 27, 2023

County Administration Building, 100 W. Washington St., Meeting Room 2000, Hagerstown, at 6:00 p.m.

AGENDA

AP2023-044: An appeal was filed by Paul Schiro Jr. for a variance from the required side yard setback of 15 ft. to 7 ft. from the northwest property line for proposed detached structure on the property owned by the appellant and located as 938 Valley Road, Knoxville, Zoned Environmental Conservation. - **GRANTED**

Pursuant to the Maryland Open Meetings Law, notice is hereby given that the deliberations of the Board of Zoning Appeals are open to the public. Furthermore, the Board, at its discretion, may render a decision as to some or all of the cases at the hearing described above or at a subsequent hearing, the date and time of which will be announced prior to the conclusion of the public hearing. Individuals requiring special accommodations are requested to contact Katie Rathvon at 240-313-2464 Voice, 240-313-2130 Voice/TDD no later than September 18, 2023. Any person desiring a stenographic transcript shall be responsible for supplying a competent stenographer.

The Board of Appeals reserves the right to vary the order in which the cases are called. Please take note of the Amended Rules of Procedure (Adopted July 5, 2006), Public Hearing, Section 4(d) which states:

Applicants shall have ten (10) minutes in which to present their request and may, upon request to and permission of the Board, receive an additional twenty (20) minutes for their presentation. Following the Applicant's case in chief, other individuals may receive three (3) minutes to testify, except in the circumstance where an individual is representing a group, in which case said individual shall be given eight (8) minutes to testify.

Those Applicants requesting the additional twenty (20) minutes shall have their case automatically moved to the end of the docket.

For extraordinary cause, the Board may extend any time period set forth herein, or otherwise modify or suspend these Rules, to uphold the spirit of the Ordinance and to do substantial justice.

Jay Miller, Chairman

Board of Zoning Appeals



WASHINGTON COUNTY BOARD OF ZONING APPEALS

747 Northern Avenue | Hagerstown, MD 21742-2723 | P:240.313.2430 | F:240.313.2431 | Hearing Impaired: 7-1-1

ZONING APPEAL

Property Owner: Paul Schiro Jr.
938 Valley Road
Knoxville MD 21758

Docket No: AP2023-044

Tax ID No: 11006817

Zoning: EC

Appellant: Paul Schiro Jr.
938 Valley Road
Knoxville MD 21758

RB Overlay: No

Zoning Overlay:

Filed Date: 08/30/2023

Hearing Date: 09/27/2023

Property Location: 938 Valley Road
Knoxville, MD 21758

Description Of Appeal: Variance from the required side yard setback of 15 ft. to 7 ft. from the northwest property line for proposed detached structure.

Appellant's Legal Interest In Above Property: Owner: Yes

Contract to Rent/Lease: No

Lessee: No

Contract to Purchase: No

Other:

Previous Petition/Appeal Docket No(s):

Applicable Ordinance Sections: Washington County Zoning Ordinance Section 5B.5

Reason For Hardship: Wanting to replace the previous non-conforming shed as it is the best location on the property.

If Appeal of Ruling, Date Of Ruling:

Ruling Official/Agency:

Existing Use: Residential

Proposed Use: Detached Structure

Previous Use Ceased For At Least 6 Months:

Date Ceased:

Area Devoted To Non-Conforming Use -

Existing:

Proposed:

I hereby affirm that all of the statements and information contained in or filed with this appeal are true and correct.

[Handwritten Signature]

Appellant Signature

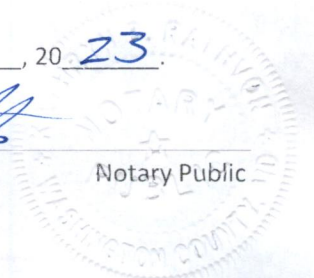
State Of Maryland, Washington County to-wit:

Sworn and subscribed before me this 30 day of August, 2023.

Kathryn B Rathvon
NOTARY PUBLIC
WASHINGTON COUNTY
MY COMMISSION EXPIRES NOVEMBER 07, 2025

[Handwritten Signature]

Notary Public





WASHINGTON COUNTY BOARD OF ZONING APPEALS

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AFFIDAVIT IN COMPLIANCE WITH SECTION 25.51(C)

Docket No: AP2023-044

State of Maryland Washington County, To Wit:

On 8/30/2023, before me the subscriber, a Notary of the public of the State and County aforesaid, personally appeared Paul Schiro Jr. and made oath in due form of law as follows:

Paul Schiro Jr. will post the zoning notice sign(s) given to me by the Zoning Administrator in accordance with Section 25.51(c) of the Washington County Zoning Ordinance for the above captioned Board of Appeals case, scheduled for public hearing on 09/27/2023, and that said sign(s) will be erected on the subject property in accordance with the required distances and positioning as set out in the attached posting instructions.

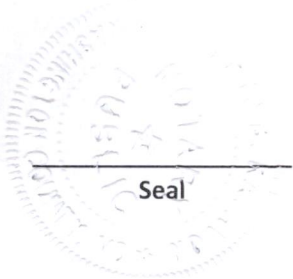
Sign(s) will be posted on 09/12/2023 and will remain until after the above hearing date.

Paul Schiro Jr.

Sworn and subscribed before me the day and year first above written.

Kathryn B Rathvon
NOTARY PUBLIC
WASHINGTON COUNTY
MARYLAND
MY COMMISSION EXPIRES NOVEMBER 07, 2025

Notary Public



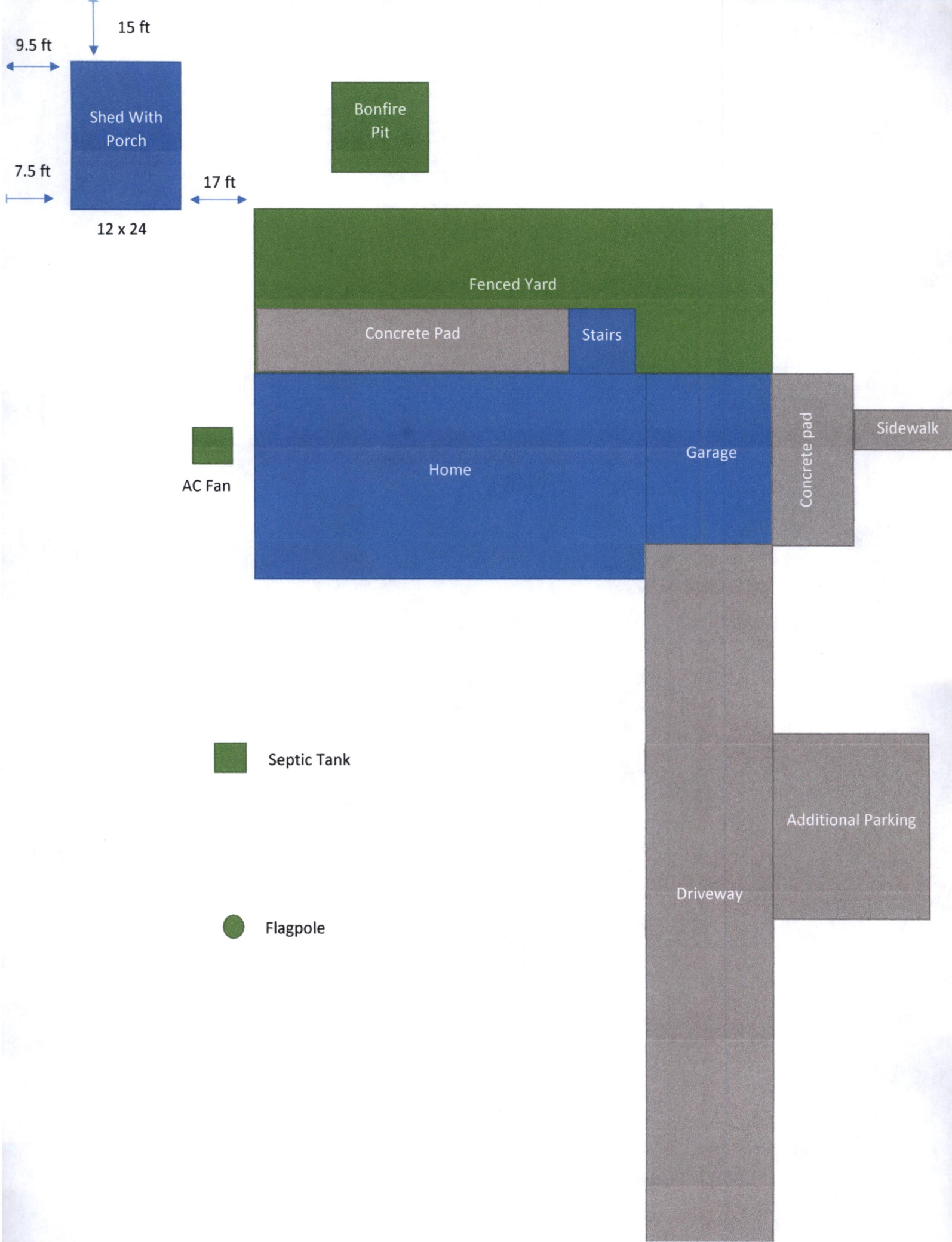
Seal

My Commission Expires

Reason for ordinance variance:

The shed that was located on my property, at 938 Valley Road, was dilapidated and needed to be taken down and rebuilt. As a new resident of this area, I was uninformed of the permit process. I am active-duty military; therefore, it can be difficult to be aware of rules in various localities. The location of the previous shed was the most ideal site, which is why I would like to rebuild the shed in that location. With my septic system in my front yard, I am unable to build it in the front of the house. There is space to build the shed on the opposite side of the house, but to place my shed there I would need to remove two trees. Furthermore, it would be placed in front of my neighbor's windows.

I have included a diagram and pictures to show the necessity of building the shed in that location.



Shed With Porch

Bonfire Pit

Fenced Yard

Concrete Pad

Stairs

Home

Garage

Concrete pad

Sidewalk

AC Fan

Septic Tank

Flagpole

Additional Parking

Driveway

12 x 24

9.5 ft

15 ft

7.5 ft

17 ft

**BEFORE THE BOARD OF APPEALS
FOR WASHINGTON COUNTY, MARYLAND**

PAUL SCHIRO

Appellant

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Appeal No.: AP2023-044

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OPINION

Paul Schiro (hereinafter “Appellant”) requests a variance to reduce the required side yard setback from 15 feet to 7 feet from the northwest property line for a proposed detached structure at the subject property. The subject property is located at 938 Valley Road, Knoxville, Maryland and is zoned Environmental Conservation. The Board held a public hearing in this matter on September 27, 2023.

This appeal was heard pursuant to Article 25 of the Zoning Ordinance for Washington County and upon proper notice to the parties and general public as required.

Findings of Fact

Based upon the testimony given, all information and evidence presented, and upon a study of the specific property involved and the neighborhood in which it is located, the Board makes the following findings of fact:

1. Appellant is the owner of the subject property located at 938 Valley Road, Knoxville, Maryland. The subject property is zoned Environmental Conservation.
2. The subject property consists of approximately 1.18 acres of land, improved by a residence, a fenced yard and a driveway the travels along the right side of the home.
3. The subject property previously had a shed near the northwest property line. Appellant demolished the shed due to its state of disrepair and poor conditions.
4. Along the right side of the property Appellant would need to remove several trees but could construct the shed without the need for variance relief.

5. The neighboring property to the northwest boundary line is farmland and there are no homes near the proposed location of the shed.

6. Appellant proposes to construct a 12-foot by 244-foot shed and a 20-foot-wide concrete slab. The area of the shed is the same as occupied by the previous shed and is cleared for construction.

7. The proposed shed would be approximately seven (7) feet from the property line and seventeen (17) feet from the fence enclosure in the back yard.

8. Appellant's neighbor, Judy Lyons Wolf, owns the farmland closest to the proposed shed and is in support of the project.

9. There was no opposition presented to this appeal.

Rationale

The Board has authority to grant a variance upon a showing of practical difficulty or undue hardship. §§ 25.2(c) and 25.56.¹ "Practical Difficulty" may be found by the Board when: (1) strict compliance would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome; and (2) denying the variance would do substantial injustice to the applicant and a lesser relaxation than that applied for would not give substantial relief; and (3) granting the variance would observe the spirit of the Ordinance and secure public safety and welfare. § 25.56(A).

Practical difficulty and undue hardship are the result of a property being unique. "Uniqueness" of a property for zoning purposes requires that the subject property have an inherent characteristic not shared by other properties in the area, i.e., its shape, topography, subsurface condition, environmental factors, historical significance, access or non-access to navigable waters, practical restrictions imposed by abutting properties (such as obstructions) or other similar restrictions." *North v. St. Mary's Cnty.*, 99 Md. App.

¹ "When the terms unnecessary hardship (or one of its synonyms) and practical difficulties are framed in the disjunctive ("or"), Maryland courts generally have applied the more restrictive hardship standard to use variances, while applying the less restrictive practical difficulties standard to area variances because use variances are viewed as more drastic departures from zoning requirements." *Belvoir Farms Homeowners Ass'n, Inc. v. North*, 355 Md. 259, 276 n.10 (1999) (citations omitted).

502, 514 (1994).)

In the instate case, Appellant seeks to replace an old, dilapidated shed with a new, larger shed that will be inside the setback area along northwest property line of his property. Appellant testified that although he may have room on the opposite side of the property, it would require the costly removal of several trees that also serve as a buffer to the neighboring property. In addition, the shed would be located in close proximity to the neighbor's residence. The shed has been located in the proposed area for many years and it is logical to maintain it in this location. Moving the location would cause considerable expense and disrupt otherwise natural and inherent characteristics of the subject property. The Board finds that this constitutes practical difficulty, and that Appellant should be afforded the relief requested to rebuild the proposed shed structure.

Accordingly, the variance request to reduce the required side yard setback from 15 feet to 7 feet from the northwest property line for a proposed detached structure at the subject property is GRANTED, by a vote of 5-0. Said variance request is granted upon the condition that the proposed use be consistent with the testimony and evidence presented herein.

BOARD OF APPEALS

By: Jay Miller, Chair

Date Issued: October 26, 2023

Notice of Appeal Rights

Any party aggrieved by a final order of the Authority in a contested case, whether such decision is affirmative or negative in form, is entitled to file a petition for judicial review of that order to the Circuit Court for Washington County within thirty (30) days of the date of the order.