

BEFORE THE BOARD OF ZONING APPEALS
TOWN OF WASHINGTON GROVE

IN THE MATTER OF:	:	
	:	
JANE SEEGAL	:	Case No. 2020-01
315 Grove Avenue	:	

OPINION AND ORDER

Jane Seegal (petitioner), owner of a detached, single-family dwelling unit located at 315 Grove Avenue, requested a variance from the requirements set forth in Article VII of the Washington Grove Code of Ordinances.¹

The Board conducted a public hearing on this matter on January 11, 2020. At the conclusion of the hearing, the Board closed the record and determined that petitioner’s appeal for a variance should be remanded to the Washington Grove Planning Commission for further discussion and deliberation. This opinion memorializes and finalizes that decision.

Based on the evidence admitted, the Board makes the following findings of fact and conclusions of law:

1. **Notice of Hearing.** The Board finds that a notice of public hearing to consider the petitioner’s variance request was given in compliance with Section 11.311.²
2. **Denial of Building Permit.** Section 12.2(a)(1) states that this Board may grant a variance if the Town has denied a petitioner a permit for the building for which a variance is sought. Petitioner submitted an application to the Planning Commission for a building permit to demolish a non-compliant shed located at 315 Grove Avenue and to rebuild the shed in approximately the same non-compliant location.

Although the Planning Commission denied the building permit application, the Commission did not provide the Board with any written or oral statement setting forth the provision(s) in the ordinances that were the basis for the denial, or otherwise describing the reason(s) for the denial.

Decision. The Board neither grants nor denies petitioner's request for a variance. Instead, the Board declines to issue a decision, and remands petitioner's request to the Commission for further discussion and deliberation. Since the Board did not receive from the Commission a specific rationale for the denial of the requested variance, the Board cannot review the merits of the Commission's denial, and cannot consider whether the request meets the remainder of the requirements for granting a variance that are set forth in Section 12.2.

The Board notes that it has no indication whether the Commission, in denying the petitioner's request, considered the application of Section 5.31 to the request. The Board believes that Section 5.31, which provides that a

non-complying building may be reconstructed, enlarged, remodeled, repaired, and otherwise altered, provided there is no increase in the degree of non-compliance,

may be pertinent to this request for variance and recommends to the Commission that it consider this section in its further deliberations.



Marc Hansen, Chair
Board of Zoning Appeals



Date

¹ Section references are to Article VII, Zoning, of the Washington Grove Code of Ordinances.

Washington Grove Board of Zoning Appeals

Minutes

The Board of Zoning Appeals met on January 11, 2020, at 10:30 a.m. in the Council Room of McCathran Hall to conduct a public hearing on the variance request filed by Jane Seegal, 315 Grove Avenue, to allow the construction of a shed in the same non-compliant location as one that will be demolished at 315 Grove Avenue.

Satoshi Amagai, Christine Dibble and Marc Hansen sat as the Board.

After conducting a public hearing, the Board adopted by unanimous consent the attached Opinion and Order granting the variance.

Respectfully submitted,



Marc Hansen,
Board of Zoning Appeals

Approved:

1/20/20
Date

Washington Grove, MD Board of Zoning Appeals

201 Chestnut Avenue
Box 27
Washington Grove, MD 20880

January 20, 2020

Peter Nagrod, Chair
Washington Grove, MD Planning Commission
1 the Circle
Box 525
Washington Grove, MD 20880

Dear Peter,

On January 11, the Board of Zoning Appeals (Board) held a hearing to determine if a variance should be granted to allow the construction of a shed in the same non-compliant location as one that will be demolished at 315 Grove Avenue.

The Board declined to make a decision, and is remanding the matter to the Planning Commission, in large part because neither the written materials submitted to the Board, nor the oral testimony presented, made sufficiently clear to the Board members the bases upon which the Planning Commission denied the permit that was the subject of the hearing.

In order to enhance the efficiency with which zoning appeals can be considered, the Board members strongly recommend that whenever an appeal for a variance or special exception comes before the Board, the chair of the Planning Commission send to the Town Clerk in advance of the hearing for that appeal, a letter that includes the following information:

1. The name of the applicant(s).
2. A statement summarizing the demolition and/or construction work that would have been done if a permit had been granted.
3. The date of the Planning Commission meeting in which the permit was denied.
4. A list of all zoning provisions in the Town ordinances that served as the basis for the denial of the permit, and, for each provision, a short (one to two sentence) statement explaining how the intended non-conforming use or non-complying building fails to satisfy the requirements of the provision.

On behalf of all of the Board members, we appreciate the Planning Commission's attention to this request.

Sincerely,



Marc Hansen
Chair, Board of Zoning Appeals

Cc:
Washington Grove Town Clerk
Box 216
Washington Grove, MD 20880

Washington Grove, MD Board of Zoning Appeals

201 Chestnut Avenue
Box 27
Washington Grove, MD 20880

January ~~20~~ 2020

Mayor John Compton
Members of the Town Council of Washington Grove
300 Grove Avenue
Box 216
Washington Grove, MD 20880

Dear Mayor Compton and members of the Town Council,

On January 11, the Board of Zoning Appeals (Board) held a hearing to determine if a variance should be granted to allow the construction of a shed in the same non-compliant location as one that will be demolished at 315 Grove Avenue.

The Board declined to make a decision, and is remanding the matter to the Planning Commission. None of the Board members recalls any instance in the past in which the Board has remanded a zoning appeal to the Planning Commission.

Section 11.32 of Chapter VII of the town ordinances requires that at the close of a public hearing for a zoning appeal, the Board:

must render a decision either by

- (a) approving or denying the application or appeal, or
- (b) dismissing the application or appeal if the Board finds that it fails to conform to any of the procedural requirements of this Article.

On behalf of the Board members, we believe that our authority to remand is inherent in our authority to approve or deny an appeal; however, for the sake of clarity, we are requesting that subsection (a) of section 11.32 be amended to read "approving, **remanding**, or denying the application or appeal, or".

On behalf of all of the Board members, thank you for your consideration of this request.

Sincerely,



Marc Hansen
Chair, Board of Zoning Appeals