



Board of Zoning Appeals Meeting Agenda

Berlin Town Hall
10 William Street
Wednesday, September 2, 2020
6:30 PM

SPECIAL NOTICE: Until further notice public attendance at Town meetings is prohibited due to gathering-size restrictions. Meetings will be streamed live on Facebook during this time. Your patience and understanding as we work to meet the restrictions on gathering size, while still conducting Town business is truly appreciated.

- Written questions will be accepted until 12:00 PM/NOON on the day of the meeting. Submit to:
 - Email: dengelhart@berlinmd.gov; please use Meeting Questions as your subject
 - Fax to: 410-641-2316
 - Mail to: Berlin Planning Department, Attn: Meeting Questions, 10 Williams St., Berlin, MD 21811. Mail should be posted no later close of business on the Friday before the meeting to help ensure delivery.
 - Drop off in one of the two drop boxes at Town Hall – one is at the rear of the building behind the stair tower, and the other is at the corner of Bay and Williams Street on the building.

To access the Meeting via live stream on Facebook, please click on the blue Facebook icon at the top of any page on the Town website, www.berlinmd.gov, or type @berlinmd in the Facebook search bar.

No response will be given to questions and comments submitted via Facebook during a regular meeting.

PUBLIC HEARINGS: If a public hearing is scheduled, questions will also be taken via Facebook during the Public Hearing portion of that meeting. A staff member will monitor the questions for duplicates, language and appropriateness to the Public Hearing topic. Depending on the volume of questions, we may not be able address everyone.

Responses will be given out loud via the live stream; they WILL NOT be responded to via the comments on Facebook.

Staff Report to the Berlin Board of Zoning Appeals

Meeting Date: September 2, 2020, 6:30 PM

Tonight's appeal has been received from Ms. Jill Gray, the owner of record for the property known as 203 Broad Street requesting a variance from the required rear yard setback of 35 feet in the R-1 Residence District.

The property owner would like to encroach 12 feet past the platted Building Restricted Line to construct an attached 9 foot deck and 3 foot stairs to the rear of the new home currently under construction on the site.

The variance is necessary due to the requirements of Town Code Section 108-706, "Measurement of front yard depth", which prescribes an additional 30 foot front yard setback be added to the usual 25 foot front yard setback along major collector streets, pushing the position of the home under construction back 30 feet to be within the BRL line. Broad Street is identified as a major collector street. I have enclosed copies of Section 108-706 for your reference.

Staff recommends the granting of the variance pursuant to Section 108-165, "Variances", Subsection (a), of the Town Code, which states in part: "(a) Where, by reason of the exceptional narrowness, shallowness or unusual shape of a specific piece of property....the board shall have the power upon appeal in specific cases...to authorize such variance from the terms of this chapter as will relieve such hardship, so that the spirit and purpose of this chapter shall be observed and substantial justice done." I have enclosed copies of Section 108-165 for your reference. The granting of the variance would also have minimal negative impact on the adjoining property to the rear.

Respectfully submitted,

A handwritten signature in blue ink, reading "David H. Engelhart". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Planning Director

exception, subject to compliance with certain conditions, the board may require, from the owners, lessees or tenants of the property for which the conditional use or exception is granted, such evidence, written agreement guaranty or bond as it may deem necessary to ensure that the conditions stipulated by the board are being and will be complied with. Any such written agreement may be required by the board to be recorded among the land records of the county at the expense of the applicant.

(Code 1977, § 107-69(D); Ord. No. 2000-10, 9-25-2000)

Sec. 108-164. Nonconforming uses.

The board of appeals may authorize the issuance of a zoning certificate, after a public hearing, for any of the following:

- (1) The substitution for a nonconforming use for another nonconforming use if no structural alterations are made except those required by law or regulation; provided, however, that in any R or B District, no change shall be permitted to any use prohibited in an M-1 District.
- (2) The extension of a building devoted to a nonconforming use or the construction of additional buildings, or the extension of a nonconforming use of land, where any such extension is necessary and incidental to the continuation of the existing use but is not authorized by section 108-670(3)a. No such extension or addition shall be deemed to extend or otherwise affect the date when such nonconforming use or building must be changed or removed, if subject to any of the provisions of section 108-670(2).

(Code 1977, § 107-69(E); Ord. No. 2000-10, 9-25-2000)

Sec. 108-165. Variances.

(a) Where, by reason of the exceptional narrowness, shallowness or unusual shape of a specific piece of property on the effective date

of the ordinance from which this chapter is derived, or by reason of exceptional topographic conditions or other extraordinary situation or condition of such piece of property or of the use of development of property immediately adjoining the piece of property in question, the literal enforcement of the requirements of this article would involve practical difficulty or would cause unnecessary hardship, unnecessary to carry out the spirit and purpose of this chapter, the board shall have the power upon appeal in specific cases, filed as herein before provided, to authorize such variance from the terms of this chapter as will relieve such hardship, so that the spirit and purpose of this chapter shall be observed and substantial justice done. In authorizing a variance, the board may attach thereto such conditions regarding the location, character and other features of the proposed structure or use as it may deem necessary in the interest of the furtherance of the purpose of this chapter and in the public interest. In authorizing a variance, with attached conditions, the board may require such evidence and guaranty, or bond, as it may deem necessary that the conditions attached are being and will be complied with.

(b) No such variance in the provisions or requirement of this chapter shall be authorized by the board unless the board finds, beyond reasonable doubt, that all the following facts and conditions exist:

- (1) That there are exceptional or extraordinary circumstances or conditions applying to the property in question, or to the intended use of the property, that do not apply generally to other properties or classes of uses in the same zoning district.
- (2) That such variance is necessary for the preservation and enjoyment of substantial property rights possessed by other properties in the same zoning district and in the same vicinity.

- (3) That the authorizing of such variance will not be of substantial detriment to adjacent property and will not materially impair the purpose of this chapter or the public interest.

(c) No grant of a variance shall be authorized unless the board specifically finds that the condition or situation of the specific piece of property or the intended use of said property for which variance is sought, one or the other or in combination, is not of so general or recurrent a nature as to make reasonably practicable the formation of a general regulation for such condition or situation to be adopted by the Mayor and Council as an amendment to this chapter. (Code 1977, § 107-69(F); Ord. No. 2000-10, 9-25-2000)

Sec. 108-166. Limitations, guides and standards.

Where, in this chapter, certain powers are conferred upon the board of appeals or the approval of the board of appeals is required before a permit may be issued, or the board is called upon to decide certain issues, such board shall study the specific property involved and the neighborhood, cause the property to be posted in a conspicuous place, hold a public hearing and consider all testimony and data submitted, and it shall hear any person for or against the issuance of the permit. However, the application for the permit shall not be approved where the board finds the proposed building, addition, extension of the building or use, sign, use or change of use would adversely affect the public health, safety, security, morals or general welfare or would result in dangerous traffic conditions or would jeopardize the lives or property of other people in the neighborhood. In deciding such matters, the board shall give consideration, among other things, to the following:

- (1) The purpose, application, interpretation and standards of these regulations as set forth in article I of this chapter.

- (2) Decisions of the circuit court for the county and the court of appeals of the state.
- (3) The orderly growth and improvement of the neighborhood and community.
- (4) The most appropriate use of land and structures in accordance with a comprehensive plan.
- (5) Facilities for sewers, water, schools, traffic, transportation and other services, and the ability of the town or other public agency to supply such services.
- (6) The limitations of firefighting and rescue equipment and the means of access for fire and police protection.
- (7) The probable effect of such use upon the peaceful enjoyment of people in their homes.
- (8) The number of people residing, working or studying in the immediate vicinity.
- (9) The type, character and use of structures in the vicinity, especially where people are apt to gather in large numbers such as in schools, churches, theaters and the like.
- (10) Traffic conditions, including facilities for pedestrians such as sidewalks and safety zones and parking facilities available and the access of cars to highways.
- (11) The preservation of cultural and historic landmarks.
- (12) The conservation of property values.
- (13) The probable effect of odors, dust, gas, smoke, fumes, vibration, glare or noise upon the uses of surrounding properties.
- (14) The contribution, if any, such proposed use, building or addition would make toward the deterioration of areas and neighborhoods.

(Code 1977, § 107-70; Ord. No. 2000-10, 9-25-2000)

cupy all or part of any required yard or open space except as specified in sections 108-767 and 108-788.

(Code 1977, § 107-19; Ord. No. 2000-10, 9-25-2000)

Sec. 108-705. Transitional uses.

In any R-1 or R-2 District, a transitional use shall be permitted on a lot, which adjoins either directly or across an alley, a B or M District. The permitted transitional uses for any such lot shall be of any use permitted in the R-3 District. In such case, the requirements governing lot area per family, off street parking, yards and other open spaces shall be the same as in an R-3 District. Any transitional use shall not extend more than 75 feet from the district boundary line.

(Code 1977, § 107-20; Ord. No. 2000-10, 9-25-2000)

Sec. 108-706. Measurement of front yard depth.

Each front yard depth or setback specified herein shall be measured at right angles (or radial) from the nearest street right-of-way line, except that where the right-of-way of any existing street is less than 40 feet wide in the case of a minor street, or less than 60 feet wide in the case of a major street, the front yard or setback shall be measured from a line 25 feet or 30 feet, as the case may be, from the center line of the street. The foregoing rules shall apply also to the measurement of a side yard on the street side of a corner lot.

(Code 1977, § 107-21; Ord. No. 2000-10, 9-25-2000)

Sec. 108-707. Court requirements.

Where a court is provided in any building other than a single-family dwelling, for the purpose of furnishing light and air to rooms in which persons are to live, sleep or work, except storage rooms, such court shall comply with the

regulations as specified in the building code, in effect in the town, and all amendments, as may be adopted by the Mayor and Council.

(Code 1977, § 107-22; Ord. No. 2000-10, 9-25-2000)

Sec. 108-708. Yard requirements along zoning boundary lines.

Along any zoning line, on a lot adjoining such boundary line in the less restricted district, any abutting front yard, side yard, rear yard or court, unless subject to greater restrictions or requirements stipulated by other provisions of this chapter, shall have a minimum width or depth equal to the average of the required minimum widths or depths for such yards or courts in the two districts on either side of such zoning boundary line. In case the height of a proposed structure on such lot in the less restricted district is greater than the maximum height permitted in the adjoining more restricted district, the minimum width or depth of the yard or court for such structure shall be determined by increasing the minimum width or depth required for the highest structure permitted in such more restricted district by one foot for each two feet by which the proposed structure exceeds the maximum height permitted in said more restricted district.

(Code 1977, § 107-23; Ord. No. 2000-10, 9-25-2000)

Sec. 108-709. Traffic visibility across corner lots.

In any district on any corner lot, no fence, structure or planting that would interfere with traffic visibility, as determined by the planning director, across the corner shall be erected or maintained within 25 feet of the intersection of the street lines.

(Code 1977, § 107-24; Ord. No. 2000-10, 9-25-2000)

Sec. 108-710. Conversion of dwellings.

The conversion of a building into a dwelling or the conversion of a dwelling so as to accommo-



Mayor & Council of Berlin

10 William Street, Berlin, Maryland 21811

Phone 410-641-2770 Fax 410-641-2316

www.berlinmd.gov



NOTICE OF PUBLIC HEARING

Town of Berlin

Board of Zoning Appeals

September 2, 2020

Pursuant to the requirements of 108-165 and §108-191 of the Code of the Town of Berlin, notice is hereby given that a public hearing will be conducted by the Berlin Board of Zoning Appeals in the Mayor and Council Chambers of Berlin Town Hall, 10 William Street, Berlin, Maryland on

WEDNESDAY

6:30 PM

1. Approval of Minutes – August 5, 2020
2. 203 Broad Street - Requesting a variance for rear deck and stairs

Applicant: Jill Gray (represented by Steve Green)

Please see previous page for information regarding submission of questions or comments regarding the above agenda item. This meeting will be streamed live via Facebook. Questions and comments will also be taken live via that broadcast at the appropriate time during the hearing.

Any persons having questions about the above-referenced meeting or any persons needing special accommodations should contact Dave Engelhart at 410-641-4143. Written materials in alternate formats for persons with disabilities are made available upon request. TTY users dial 7-1-1 in the State of Maryland or 1-800-735-2258 outside Maryland.

Town of Berlin
Board of Zoning Appeals
August 5th, 2020

Chairman Joe Moore called the August 5th, 2020 Board of Zoning Appeals meeting to order at 6:30PM. Members present were Joe Moore, Woody Bunting, Jay Knerr, Robert Paladino and John Apple. Staff present was Planning Director Dave Engelhart and Deputy Town Administrator Mary Bohlen.

Chairman Joe Moore called for a motion to approve the minutes from February 5th, 2020. Mr. Jay Knerr made the motion to approve the minutes for February 5th, 2020. Mr. John Apple seconded the motion.

Chairman Joe Moore stated that the application before them was for 7 Baker Street for Mr. Doug & Suzanne Parks for a variance. Mr. Joe Moore asked Planning Director Dave Engelhart to state the nature of the case. Mr. Dave Engelhart stated pursuant to Sections 108-702 of the Town Code of Berlin Accessory Buildings in Residential Districts. He stated carports like this are defined as accessory buildings. They are to be 6 feet off the side property line 6 feet off the rear and 6 feet from any other structure. The proposed car port is 1 foot off the adjoining property line from the neighbor. This would be an encroachment of 5 feet into that building required setback. Chairman Joe Moore asked if there was a staff recommendation. Mr. Dave Engelhart stated the neighbor at 9 Baker Street didn't object and he had put a letter from them in the packet. Mr. Engelhart stated he didn't think it was detrimental to the neighborhood or anyone on Baker Street. He thought it was a low impact addition so he would recommend approval.

Chairman Joe Moore stated the letter is from the neighbor that would be affected. Mr. Engelhart stated it was on the west side of the property line. Mr. Woody Bunting stated he had prepared the site plan and had been paid for the job. He wanted everyone to know and if they wanted him to recuse himself, he would. Chairman Moore asked the board members if they were content with Mr. Bunting sitting. They all replied they were okay with it.

Chairman Joe Moore swore in Mrs. Suzanne Parks. Mrs. Parks stated that the reason for the carport after living in their house 42 years is, they have acquired a 1971 Volkswagen that needs to go under it. They have also sold 115 Broad Street and are losing storage space and that is the reason for the shed that will be attached to the rear of the carport. Chairman Moore asked was there another location that they could put the carport. Mrs. Parks stated no because this was right at the driveway. Chairman Joe Moore stated when you look at the site plan that is an existing driveway. Mrs. Parks stated yes. Chairman Moore asked what type of car you must shelter. Mrs. Parks stated a 71 VW Bug. Chairman Moore stated so this is an historic car. Mrs. Parks replied it is historic and they want to put it under cover. Chairman Moore asked if they had to relocate the carport would that cause a practical difficulty. Mrs. Parks replied yes it would. Chairman Moore stated for the record you did obtain Mrs. Joann Wagner's consent per her letter she is your next-door neighbor. Mrs. Parks replied yes. Chairman stated that it appeared that no other property was affected by this. Mrs. Parks stated no other property. Mr. Jay Knerr asked if the length of the driveway was 12 feet. Chairman Moore stated he would need to swear in Mr. Parks if he was going to testify. Mr. Knerr was asking about the length of the vehicle, if more

space would be needed to store it. Chairman Moore stated if it needed additional space it would be along the same setbacks. Mrs. Parks stated it would be made longer coming forward. Mr. Engelhart stated they still must get a building permit these are sketches and that could change too. Chairman Moore asked for something like this do they have to go to Planning Commission. Mr. Engelhart replied no multi-family would go to Planning Commission. Mr. Woody Bunting asked about the tree behind it. Mrs. Parks stated they may have to cut some branches off the tree. Mr. John Apple asked how far from the porch was the driveway. He asked was that 6 feet. He asked if it had to be moved to the rear if the large tress would be in the way. Mrs. Parks replied yes.

Chairman Moore asked if anyone else had any questions. No one replied. He then asked if anyone else was for or against his request for the carport and shed. Mr. Engelhart stated he hadn't received anything prior, questions or comments and they were also streaming live on Facebook. Ms. Mary Bohlen checked Facebook and no questions appeared. Mr. Jay Knerr made the motion to accept the site plan as submitted. Mr. Robert Palladino seconded the motion and it was unanimously accepted by the commission. Chairman Moore asked if anything else was on the agenda to attend to. Mr. Engelhart replied no. Chairman Joe Moore called for a motion to adjourn. Mr. Woody Bunting make motion to adjourn. Mr. Jay Knerr seconded. Meeting Adjourned

Respectfully Submitted,


Dave Engelhart



TELEPHONE 410-641-2770
FAX 410-641-2316
berlin@townofberlinmd.com

Mayor & Council Of Berlin

10 William Street Berlin, Maryland 21811

www.townofberlinmd.com

BOARD OF ZONING APPEALS APPLICATION

Property Location: 203 BROAD STREET Date: 8/10/2020
Lot #: 2 Lot Size: 17,357 S.F. Zoning: R-1 Map#: 300 Parcel#: 1231

Please check (✓) one of the following option requests:

Variance ☒ Conditional Use ☐ Special Exception ☐

Description of Request:

REAR DECK + STAIRS

Has the property in question ever been the subject of a previous appeal? _____
If you answered yes, what is the appeal number and date? _____

Property Owner: JILL GRAY (represented by Steve Green)
Address: 203 BROAD STREET
Phone: 410-430-6199 Owner's Signature: [Signature] Date: 8/10/2020

OFFICE USE ONLY. PLEASE DO NOT MARK BELOW.

CASE #: 9-2-20-04 DATE RECEIVED: 8/10/2020
HEARING DATE: 9-2-2020 LAND POSTED: 8/19/2020
DECISION: _____



Aug. 10, 2020

Dear Whom It May Concern,

I am aware of the request for a setback variance for a deck and steps to be added to the rear of the property at 203 Broad Street in Berlin. I understand the specifics of the case. As the most impacted neighboring property owner, I support the request and have no concerns with endorsing the variance request for the deck and steps before the town's Board of Zoning Appeals at its September meeting.

Yours Truly,


J. Steven Green

1 HARRISON AVE.

Aug. 10, 2020

Dear Whom It May Concern,

I am aware of the request for a setback variance for a deck and steps to be added to the rear of the property at 203 Broad Street in Berlin.

As a nearby property owner, I have no concerns with endorsing the variance request for the deck and steps before the town's Board of Zoning Appeals at its September meeting.

Yours Truly,

Seannan & Doug Parks
115 Broad St
Berlin, Md 21811

Aug. 10, 2020

Dear Whom It May Concern,

I am aware of the request for a setback variance for a deck and steps to be added to the rear of the property at 203 Broad Street in Berlin.

As a nearby property owner, I have no concerns with endorsing the variance request for the deck and steps before the town's Board of Zoning Appeals at its September meeting.

Yours Truly,

Mary and Penny Moore
218 Broad Street
Berlin, Maryland
#410-641-2122

Aug. 10, 2020

Dear Whom It May Concern,

I am aware of the request for a setback variance for a deck and steps to be added to the rear of the property at 203 Broad Street in Berlin.

As a nearby property owner, I have no concerns with endorsing the variance request for the deck and steps before the town's Board of Zoning Appeals at its September meeting.

Yours Truly,

Linda Palmer

107 Henry's Mill Dr.

Berlin