

IN THE MATTER OF : BEFORE THE
MARK D. THORNTON : HOWARD COUNTY
Petitioner : BOARD OF APPEALS
: HEARING EXAMINER
: BA Case No. 17-015V

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DECISION AND ORDER

On November 7, 2017, the undersigned, serving as the Howard County Board of Appeals Hearing Examiner, and in accordance with the Hearing Examiner Rules of Procedure, heard the petition of Mark D. Thornton (Petitioner) for variances to reduce the 10-foot side setback to 5.5 feet and increase the maximum accessory structure lot coverage to 1,180sf for a garage and garage addition in an R-20 (Residential: Single Family) zoning district, filed pursuant to § 130.0.B.2.a of the Howard County Zoning Regulations (HCZR).

Petitioner certified to compliance with the notice and posting requirements of the Howard County Code. The Hearing Examiner viewed the property as required by the Hearing Examiner Rules of Procedure. Petitioner were not represented by counsel. Mark D. Thornton testified in support of the petition. No one appeared in opposition to the variance petition.

FINDINGS OF FACT

Based upon the evidence of record, the Hearing Examiner finds as follows:

1. Property Identification. The 38,268sf subject property is located on the north side of Savage Guilford Road about 330 feet north of Flagwalk Terrace. It is identified as Tax Map 0042, Grid 0023, Parcel 290, and known as 7910 Savage Guilford Court (the Property).

2. Property Description. The Property is long and relatively narrow. A 1 ½-story single-family detached dwelling is located in the easterly front section of the Property. To the dwelling's west and rear is a 20'x28' detached garage located 5.5 feet from the westerly lot line. A gravel driveway running along the westerly lot line provides access. There is an extended row of evergreen trees on the adjoining property in the area of the existing garage and proposed addition.

3. Vicinal Properties. Adjoining properties are also zoned R-20, are all residential lots in the same subdivision and are each improved with a single-family detached dwelling. The western/northern Lot 1 of the Barney House View subdivision is the site of the Commodore Joshua Barney House (HO-41). Across Savage Guilford Court to the southeast, the R-SC zoned Greenbriar Woods subdivision lots are each improved with a single-family detached dwelling.

4. The Variance Requests. Petitioner is requesting variances to reduce the 10-foot side setback imposed by HCZR § 108.0.D.4.c(1)(b) to 5.5 feet and to increase the 600sf maximum lot coverage for accessory structures imposed by § 128.0.A.12 to 1,180sf for the existing garage and a garage addition. The proposed 20'x34 garage addition would be added to the front of the existing garage.

5. Petitioner testified to buying the Property with the existing garage and that the structure would not be used for commercial purposes.

CONCLUSIONS OF LAW

The standards for variances are contained in HCZR § 130.0.B.2.a. Pursuant to this section, the Hearing Examiner may grant a variance only if the Petitioner demonstrates compliance with all four variance criteria. Based upon the foregoing Findings of Fact, and for the reasons stated

below, the Hearing Examiner finds the requested variances comply with HCZR § 130.0.B.2.a(1) through (4), and therefore may be granted, as conditioned.

(1) That there are unique physical conditions, including irregularity, narrowness or shallowness of the lot or shape, exceptional topography, or other existing features peculiar to the particular lot; and that as a result of such unique physical condition, practical difficulties or unnecessary hardships arise in complying strictly with the bulk provisions of these regulations.

Compliance with this first criterion is a two-part test. First, there must be a finding that the property is unusual or different from the nature of the surrounding properties. Secondly, this unique condition must disproportionately impact the property such that a practical difficulty arises in complying with the bulk regulations. See *Cromwell v. Ward*, 102 Md. App. 691, 651 A.2d 424 (1995). A “practical difficulty” is shown when the strict letter of the zoning regulation would “unreasonably prevent the owner from using the property for a permitted purpose or would render conformity with such restrictions unnecessarily burdensome.” *Anderson v. Board of Appeals, Town of Chesapeake Beach*, 22 Md. App. 28, 322 A.2d 220 (1974).

In this petition, the Property's shape causes practical difficulty in complying strictly with the setback regulations, in accordance with HCZR § 130.0.B.2.a(1).

(2) That the variance, if granted, will not alter the essential character of the neighborhood or district in which the lot is located; will not substantially impair the appropriate use or development of adjacent property; and will not be detrimental to the public welfare.

The garage and garage addition would be located in the western section of the Property, where it will be screened by existing vegetation. The granting of the variances would not alter the essential character of the neighborhood or district in which the lot is located, or be detrimental to the public welfare, in accordance with § 130.0.B.2.a(2).

(3) That such practical difficulties or hardships have not been created by the owner provided, however, that where all other required findings are made, the purchase of a lot subject to the restrictions sought to be varied shall not itself constitute a self-created hardship.

The practical difficulty in complying strictly with the setback regulations arises from the irregular shape of the Property, in accordance with § 130.0.B.2.a(3).

(4) That within the intent and purpose of these regulations, the variance, if granted, is the minimum necessary to afford relief.

The requested reduced setbacks are for a reasonably sized garage and garage addition, in accordance with § 130.0.B.2.a(4).

ORDER

Based upon the foregoing, it is this **21st day of December 2017**, by the Howard County Board of Appeals Hearing Examiner, **ORDERED**:

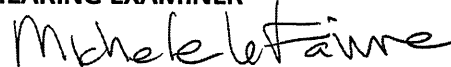
That the Petition of Mark D. Thornton for variances to reduce the 10-foot side setback to 5.5 feet and increase the maximum accessory structure lot coverage to 1,180sf for a garage and garage addition in an R-20 (Residential: Single Family) zoning district, is hereby **GRANTED**;

Provided, however, that:

1. The variances shall apply only to the existing garage and garage addition as described in the petition and plan, and not to any new structures, uses, or change in uses on the subject property or to any additions thereto.
2. The garage and garage addition are for residential use only.
3. Petitioner shall comply with all county laws and regulations.
4. Petitioner shall obtain all required permits.

HOWARD COUNTY BOARD OF APPEALS

HEARING EXAMINER



Michele L. LeFavre

Date Mailed: _____

Notice: A person aggrieved by this decision may appeal it to the Howard County Board of Appeals within 30 days of the issuance of the decision. An appeal must be submitted to the Department of Planning and Zoning on a form provided by the Department. At the time the appeal petition is filed, the person filing the appeal must pay the appeal fees in accordance with the current schedule of fees. The appeal will be heard *de novo* by the Board. The person filing the appeal will bear the expense of providing notice and advertising the hearing.