

IN THE MATTER OF	:	BEFORE THE
<b>MOSES ADEJUMO</b>	:	HOWARD COUNTY
<b>&amp; OLUREMI ADEJUMO</b>	:	BOARD OF APPEALS
Petitioner	:	HEARING EXAMINER
	:	BA Case No. 10-029V

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**DECISION AND ORDER**

On December 13, 2010, 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 Moses Adejumo and Oluremi Adejumo for a variance to reduce the 30-foot rear setback to 20 feet 7 inches for an addition in an R-SC (Residential: Single Cluster) Zoning District Zoning District, filed pursuant to Section 130.B.2 of the Howard County Zoning Regulations (the "Zoning Regulations").

The Petitioner certified to compliance with Howard County Code notice and posting requirements. I viewed the property as required by the Hearing Examiner Rules of Procedure.

The Petitioners were not represented by counsel. Moses Adejumo testified in support of the petitioner. No one appeared in opposition to the petition.

**FINDINGS OF FACT**

Based upon the evidence presented at the hearing, I find as follows:

1. Property Identification. The subject property is situated on the northwest corner of the Bee Court intersection with Sandy Ridge Court and is also known as 6000 Bee Court (the

“Property”). The Property is located in the 1<sup>st</sup> Election District and is identified as Tax Map 37, Grid 11, Parcel 640, Lot 347.

2. Property Description. The irregularly shaped 9,223-square foot corner Property has a winding front property line along Bee Court. The westerly side lot line is about 82 feet deep, the rear, about 95 feet wide, and the Sandy Ridge Court side lot line, about 80 feet deep. The Property is improved by a two-story single-family detached dwelling. The dwelling sits about 31 feet from the westerly lot line, 16 feet from the northerly lot line, 25 feet from the sandy ridge Court right-of-way (ROW) and 30 feet at its closest point from Bee Court. Although the address is Bee Court, the front façade faces Sandy Ridge. Much of the rear yard is enclosed by a fence. Within this fenced area is a double deck. The mid-façade deck is 12 feet deep. The deck closest to the northerly side façade is 15 feet deep. Access is provided from a driveway off Bee Court.

3. Vicinal Properties. Adjacent properties are also zoned RS-C. Excepting the open space lot across Sandy Ridge Court, each property is improved with a single-family detached dwelling.

4. Site Visit. The Hearing Examiner observed sunrooms on the rears of several neighboring dwellings.

5. The Petitioner's Proposal. The Petitioner is proposing to demolish the 12-foot deck and construct a 16-foot deep by about 17-foot wide sunroom addition. The Petitioner is therefore seeking a reduction in the 30-foot rear setback imposed by Section 110.D.4.d.(1)(c)(i) to 20 feet seven inches.

6. Mr. Adejumo testified that the Property is one of the smaller lots in the subdivision.

**CONCLUSIONS OF LAW**

The standards for variances are contained in Section 130.B.2.a of the Regulations. Pursuant to this section, I 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, I find the requested variances comply with Section 130.B.2.a.(1) through (4), and therefore may be granted.

**(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.**

This test involves a two-step process. 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 case, the smaller corner Property is irregularly shaped. I therefore conclude the Property's shape causes the Petitioner practical difficulty in complying with the 30-foot setback, in accordance with Section 130.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 granting of the variance will enable the Petitioner to construct an addition of about the same size and location as area sunrooms. In addition, the existing fence will partially block its view. Accordingly, the Hearing Examiner finds the variance, if granted, will not alter the essential character of the neighborhood in which the lot is located, nor substantially impair the appropriate use or development of adjacent property, nor be detrimental to the public welfare, in accordance with Section 130.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 regulation arises from the size and shape of the lot and was not created by the Petitioner, in accordance with Section 130.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 proposed sunroom will be only 4 feet deeper than the existing deck and about the same size as area sunrooms. The petition accords with Section 130.B.2.a.(4).

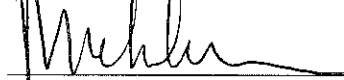
**ORDER**

Based upon the foregoing, it is this 4<sup>th</sup> day of January 2011, by the Howard County Board of Appeals Hearing Examiner, **ORDERED**:

That the Petition of petition of Moses Adejumo and Oluremi Adejumo for a variance to reduce the 30-foot rear setback to 20 feet 7 inches for an addition in an R-SC (Residential: Single Cluster) Zoning District Zoning District is **GRANTED**; provided however that:

1. The variance shall apply only to the Variance Plan submitted with the petition and not to any other activities, uses or structures, on the Property.
2. The Petitioner shall obtain all necessary permits.

**HOWARD COUNTY BOARD OF APPEALS  
HEARING EXAMINER**



**Michele L. LeFaivre**

**Date Mailed:** 1/10/11

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.