

IN THE MATTER OF	:	BEFORE THE
Leela Avula	:	HOWARD COUNTY
Petitioner	:	BOARD OF APPEALS
	:	HEARING EXAMINER
	:	BA Case No. 21-035V

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DECISION AND ORDER

On February 28, 2022, 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 Leela Avula (Petitioner) for a variance to reduce the minimum rear yard setback for principal structures from 25 feet to 10 feet, in order to construct a deck and a screened porch, at Tax Map 46, Grid 02, Parcel 113, Lot 92, also identified as 8256 South Maple Lawn Blvd, Fulton, in the R-ED (Residential: Environmental Development) MXD-3 (Mixed Use) Zoning Districts, filed pursuant to Section 130.0.B.2 of the Howard County Zoning Regulations (the HCZR) for a variance from Section 107.0.D.4.d.(1)(c).

The 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. Leela Avula (Petitioner) and Carlos Morales (Petitioner's contractor) testified in support of the Petition. Lisa Schultz testified on behalf of the Maple Lawn South Architectural Review Committee. No one appeared in opposition to the Petition.

At the hearing, Petitioner submitted the following exhibits:

Exhibit 1: Application for Architectural Change in Maple Lawn South to add trees, trampoline, and screened porch/deck

Exhibit 2: Developer (Comsource Management)(September 16, 2021) approval of the requested trees, trampoline and screened porch/deck (obtained prior to the establishment of the Maple Lawn South Home Owners Association)

FINDINGS OF FACT

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

1. Property Identification and Description. The approximately 9,300 square foot property is located at the end of the cul-de-sac of South Maple Lawn Blvd, south of its intersection with Scaggsville Road, and west of Old Columbia Pike. The subject property lies in the 6th Election District, is identified as Tax Map 46, Grid 02, Parcel 113, Lot 92, and is known as 8256 South Maple Lawn Blvd, Fulton, Maryland (the Property). The Property is improved with a single family detached dwelling.
2. Adjacent Properties. Adjacent properties are also zoned R-ED MXD-3 and are either undeveloped or developed with single family detached dwellings.
3. The Requested Variance. Petitioner purchased the Property, developed with a single-family dwelling, from the Developer. Petitioner wants to construct a 15x16

foot deck and a 15x16 foot screened porch, both of which will encroach into the Building Restriction Line, which is located approximately 1.5 feet from the rear of the dwelling. Petitioner has applied for Building Permit #B21002985 to construct the deck and screened porch. The Petitioner is requesting a variance to construct the deck and screened porch which will encroach 15 feet into the 25-foot rear yard building restriction setback.

4. Agency Comments. There are no Department or agency comments or objections to the proposed variance.

CONCLUSIONS OF LAW

The standards of variances are contained in HCZR Section 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 variance complies with Section 130.0.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.

Compliance with the 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).

As shown on the Variance Plan, the topography of the property slopes from the front of the dwelling to the rear of the dwelling, an 8-foot decrease in topography. The Property has a unique configuration which is trapezoidal in shape and the dwelling site is oddly located creating unusually wide side yards and a very narrow rear yard. The rear yard BRL is located 1.5 feet from the rear wall of the dwelling, rendering the rear yard nonexistent and unusable. These unique physical conditions result in a practical difficulty or hardship rendering the rear yard to be practically unusable.

(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.

Many of the dwellings in the Maple Lawn South development have been subsequently improved with decks and screened porches. The homes directly adjacent to the subject Property have been improved with decks/screened porches. The portion of the development in which the Property is located is adjacent to a stream valley and there are a lot of resulting insects. The proposed deck and screened porch are not visible from

the cul-de-sac and the viewshed from Lot 91 is shielded by the trees Petitioner was given permission to plant.

The variances, if granted, will therefore not alter the essential character of the neighborhood in which the lots are located nor substantially impair the appropriate use or development of adjacent property, nor be detrimental to the public welfare, in accordance with Section 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 bulk regulations requiring a 25-foot rear yard setback for principal structures are primarily the result of the peculiar trapezoidal shape of the lot, the unusual placement of the dwelling location which is not very conducive to single family dwelling use, the 8 foot drop in topography from the front of the dwelling to the rear of the dwelling, and the BRL being 1.5 feet from the rear wall of the dwelling. None of these situations were created by the Petitioner, in accordance with Section 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 variance sought, 15 feet from the 25-foot rear yard building restriction setback for the proposed deck and screened porch, is the minimum decrease necessary to create a deck and screened porch which are useable in size but not unusually large.

Within the intent and purpose of the regulations, this variance is the minimum necessary to afford relief, in accordance with Section 130.0.B.2.a.(4).

ORDER

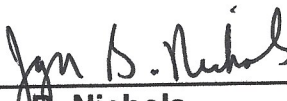
Based upon the foregoing, it is this 28th day of February, 2022, by the Howard County Board of Appeals Hearing Examiner, **ORDERED:**

That the Petition of Leela Avula for a variance to decrease the minimum rear yard setback for principal structures from 25 feet to 10 feet for a proposed deck and screened porch, Tax Map 46, Grid 02, Parcel 113, Lot 92, identified as 8256 South Maple Lawn Blvd, Fulton, Maryland, in the R-ED (Residential: Environmental Development) MXD-3 (Mixed Use) Zoning Districts, be and is hereby **GRANTED;**

Provided, however, that:

1. The variance shall apply only to the proposed deck and screened porch as described in the Petition and Variance Plan submitted and not to any other activities, uses, structures, or additions on the Property.
2. Petitioner shall obtain all necessary permits.

**HOWARD COUNTY BOARD OF APPEALS
HEARING EXAMINER**



Joyce B. Nichols

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.