

IN THE MATTER OF : BEFORE THE
JARED AND LORI GOODMAN : HOWARD COUNTY
Petitioners : BOARD OF APPEALS
: HEARING EXAMINER
: BA Case No. 13-014V

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DECISION AND ORDER

On June 6, 2013, 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 Jared and Lori Goodman for a variance to reduce the ten-foot side setback to two feet for a one-story garage addition in an R-20 (Residential: Single Family) Zoning District, filed pursuant to Section 130.B.2 of the Howard County Zoning Regulations (the "Zoning Regulations").

The Petitioners 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.

The Petitioner was not represented by counsel. Jared Goodman testified on his own behalf. 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 located on the southeast corner of the Beechwood Drive intersection with Belleview Drive. It is identified as Tax Map 36, Grid 14, Parcel 258, Lot 28 and is also known as 6401 Beechwood Drive.

2. Property Description. The 0.657-acre irregularly shaped corner Property is improved by a single-family detached dwelling and carport. Access is provided from a driveway in the southerly portion of the Property. It is lower in grade than the adjoining lot (6406 Beechwood)

3. Vicinal Properties. Adjoining properties are also zoned R-20 and are each improved by a single-family detached dwelling. The Hearing Examiner observed multiple two-car garages in the neighborhood during her site visit.

4. The Petition. The Petitioners are requesting a variance from Zoning Regulations Section 108.D.4.c.(1)(b) to reduce the 10-foot side setback to two feet for a one-story garage addition.

5. Mr. Goodman testified to serious drainage properties on his property caused by water/runoff flowing from the adjoining property and his roof. He and his neighbor have worked together to reduce the flow and Mr. Goodman has had drains installed along the side property line to channel runoff. Mr. Goodman also reconstructed his roof to better channel runoff. None of these engineering efforts has solved the drainage problem.

6. Mr. Goodman further testified to having consulted an engineer on the matter. The proposed solution is a one-story garage with underground drainage designed to channel water away from the property.

CONCLUSIONS OF LAW

The standards for variances are contained in Section 130.B.2.a of the Regulations. 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, I find the requested variance complies with Section 130.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 case, the Property's exceptional topography is a unique physical condition causing Petitioners practical difficulty in complying with the 10-foot structure and use setback requirement, 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 Findings of Fact support the conclusion that the Property will be used for permitted purposes. The Petitioner is proposing to construct a garage addition in a neighborhood where one and two-car garages abound. The requested variance will not alter the essential character of the neighborhood or district in which the lot is located, 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 Property's uniqueness and was not created by the Petitioners, 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 two-car garage addition is a reasonable size. Within the intent and purpose of the regulations, then, the variance is the minimum necessary to afford relief, in accordance with Section 130.B.2.a(4).

ORDER

Based upon the foregoing, it is this 12th day of June 2013, by the Howard County Board of Appeals Hearing Examiner, **ORDERED**:

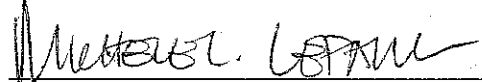
That the Petition of Jared and Lori Goodman for a variance to reduce the ten-foot side setback to two feet for a one-story garage addition in an R-20 (Residential: Single Family) Zoning District, is hereby **GRANTED**;

Provided, however, that:

1. The variance shall apply only to the garage addition and not to any new structures, uses, or change in uses on the subject property or to any additions thereto.
2. Petitioners shall obtain all necessary permits.

HOWARD COUNTY BOARD OF APPEALS

HEARING EXAMINER



Michele L. LeFavre

Date Mailed: 6/13/13

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.