

IN THE MATTER OF

Joseph Puciloski

Petitioner

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BEFORE THE

HOWARD COUNTY

BOARD OF APPEALS

HEARING EXAMINER

BA Case No. 21-041V

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DECISION AND ORDER

On February 24, 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 Joseph Puciloski (Petitioner) for a variance to increase the maximum permitted lot coverage of 600 square feet, for accessory structures for a lot in the planned public water and sewer service area, to 1,200 square feet, for a detached garage, at Tax Map 35, Grid 12, Parcel 445, Lot 1, also identified as 6032 Jerrys Drive, Columbia, in the R-20 (Residential: Single) Zoning District, filed pursuant to Section 130.0.B.2 of the Howard County Zoning Regulations (the HCZR) for a variance from Section 128.0.A.12.a(1)(a).

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. Joseph Puciloski (Petitioner) testified in support of the Petition. No one appeared in opposition to the Petition.

FINDINGS OF FACT

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

1. Property Identification and Description. The approximately 28,322 square foot property is located on the southwest side of Jerrys Drive, west of its intersection with Owen Brown Road. The subject property lies in the 4th Election District, is identified as Tax Map 35, Grid 12, Parcel 445, Lot 1, and is known as 6032 Jerrys Drive, Columbia, Maryland (the Property). It is a long thin rectangular lot, approximately 270 feet by 100 feet, which slopes from north to south and is improved with a single-family detached dwelling, an existing garage proposed to be replaced, and a small shed.

2. Adjacent Properties. Adjacent properties are also zoned R-20 and are either undeveloped or developed with single family detached dwellings.

3. The Requested Variance. Petitioner's father constructed the existing 1,100 square foot garage sometime after acquiring the Property in 1957. Petitioner wishes to replace the now decrepit garage with a new 1,200 square foot garage. This modular garage is the closest in size to the existing garage which is available. The Petitioner is requesting a variance to exceed the 600 square foot maximum for accessory building on a lot located in the planned public water and sewer service area. It is noted that although the variance request is for an additional 600 square feet, the existing garage currently exceeds the 600 square foot maximum by 500 square feet, resulting in an increase of only 100 square feet for the new garage.

4. Agency Comments. There are no Department or agency comments received.

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).

The topography of the Property has an approximately 15 feet decrease, from the north to the south of the Property. The new garage is proposed to be located on a

relatively flat area located to the rear of the existing home, and at a greater setback from Jerrys Drive than the existing garage, which will be demolished. The Property is heavily wooded in the northern area of the lot. Parcel 445 was subsequently subdivided into the subject Property, Lot 1, and a flag lot, Lot 2, located to the rear of Lot 1. To provide street access to Jerrys Drive from Lot 2, the street frontage of the subject Property was decreased from 120 feet to 100 feet. Plantings are proposed to the rear of the subject Property to provide screening of the garage to Lot 2, also owned by the Petitioner. The neighborhood has changed since 1957 with many of the original lots subdivided into several lots and constructed with a variety of housing styles. The removal of the existing garage and replacement with the new garage will result in a net gain of 100 square feet, which is minor in nature.

(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 replacement of the original garage with a new garage will actually enhance the neighborhood by the removal of a decrepit garage and its replacement with a new garage. The neighborhood has been subdivided into a variety of lot sizes and shapes and developed with a variety of housing styles and architecture. The new garage will be more modern and attractive than the existing garage. The property to the north will be unable to view the proposed garage due to the heavily wooded area on the north of the subject Property. The property to the rear of the subject Property is owned by Petitioner and will be screened from the proposed garage. The property adjacent to the south, 6036 Jerrys

Drive, will have an improved viewshed with the demolition of the existing decrepit garage and the replacement with a new garage located further from this property. The new garage, constructed pursuant to Building Code, will improve the public welfare. The new location for the garage is behind the existing home and therefore the proposed garage will not be visible from Jerrys Drive.

The variance, if granted, will therefore not alter the essential character of the neighborhood in which the subject Property is located nor substantially impair the appropriate use or development of adjacent property, nor be detrimental to the public welfare, in accordance with Section 130.0.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 maximum 600 square foot accessory structure on a lot in a planned water and sewer service area, is primarily the result of the peculiar shape and topography of the Property and the existence of the original 1,100 square foot garage. The sloping topography leaves only one flat area behind the single-family home for any accessory structures to be built. This topographical situation was not created by the Petitioner, nor is the existence of the 1,100 square foot garage, 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, 600 square feet from the 600 feet maximum for accessory building on lots in the planned public water and sewer service area, to replace the existing 1,100 square foot garage with a new 1,200 square foot garage, is the minimum increase necessary to legalize the existing garage proposed for demolition and the construction of a new garage. 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

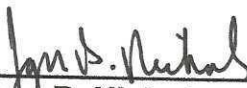
Based upon the foregoing, it is this 25th day of February, 2022, by the Howard County Board of Appeals Hearing Examiner, **ORDERED:**

That the Petition of Joseph Puciloski for a variance to increase the maximum square footage for accessory structures on a lot in a planned public water and sewer service area from 600 square feet to 1,200, to replace an existing garage, Tax Map 35, Grid 12, Parcel 445, Lot 1, identified as 6032 Jerrys Drive, Columbia, Maryland, in the R-20 (Residential: Single) Zoning District, be and is hereby **GRANTED;**

Provided, however, that:

1. The variance shall apply only to the existing garage and the proposed garage as described in the Petition and Variance Plan submitted and not to any other activities, uses, structures, or additions on the Property. The existing garage must be demolished prior to the use of the proposed garage.
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.