

IN THE MATTER OF	:	BEFORE THE
PARVIZ VEDADI	:	HOWARD COUNTY
Petitioner	:	BOARD OF APPEALS
	:	BA Case No. 18-008V
	:	

.....

DECISION AND ORDER

The Howard County Board of Appeals convened on October 18, 2019 to hear the petition of Parviz Vedadi (Petitioner), for variances from Section 110.0.D.4.d.(1)(c)(i) of the Zoning Regulations to reduce the required principal structure rear setback from 30 feet to 20.8 feet for a house addition; Section 110.0.D.4.d.(1)(c)(ii) to reduce the required accessory structure rear setback from 10 feet to 5 feet for a shed; and Section 110.0.D.4.d.(1)(b)(i) to reduce the required side setback from 7.5 feet to 0 feet for a shed in a R-SC (Residential: Single Cluster) zoning district, filed pursuant to §130.0.B.2 of the Howard County Zoning Regulations (HCZR).

Board members James Howard, John Lederer and Steven Hunt were present at the hearing and Chairman Howard presided. The Board members indicated that they had viewed the property as required by the zoning regulations. The Petitioner certified to compliance with the notice, posting and advertising requirements of the Howard County Code. Barry M. Sanders, Assistant County Solicitor, served as legal advisor to the Board.

Thomas M. Meachum, Esquire, represented the Petitioner.

The case was conducted in accordance with Section 2.209 of the Board's Rules of Procedure. The following items were incorporated into the record by reference:

1. The Howard County Code;
2. The Howard County Charter;

3. The Howard County Zoning Regulations;
4. The October 10, 2019 Department of Planning and Zoning Technical Staff Report Comments and aerial photograph of the vicinity;
5. Reviewing agencies comments;
6. The General Plan for Howard County;
7. The General Plan of Highways; and
8. The Residential District Variance Petition and Plan submitted by Parviz Vedadi.

Parviz Vedadi testified in support of the petition. No one appeared in opposition to the petition.

The Petitioner submitted into evidence the following exhibits:

1. SDAT Real Property Data Search for 8242 Mission Road, Jessup, Maryland 20794;
2. Deed for 8242 Mission Road, Jessup, MD 20794;
3. 1946 Subdivision Plat of Property;
4. Aerial Photograph of 8242 Mission Road; and
5. Aerial Photograph of 8242 Mission Road.

FINDINGS OF FACT

Based upon the evidence presented at the hearing, the Board makes the following Findings of Fact:

1. The subject property is identified as Tax Map 43, Grid 14, Parcel 271, Lots 7 & 8 and the address is 8242 Mission Road, Jessup, Maryland 20794 (the "Property").

2. The Property is in the R-SC (Residential: Single Cluster) zoning district and is 0.443-acres.

3. Before the Board is a petition for variances from Section 110.0.D.4.d.(1)(c)(i) of the Zoning Regulations to reduce the required principal structure rear setback from 30 feet to 20.8 feet for a house addition; Section 110.0.D.4.d.(1)(c)(ii) to reduce the required accessory structure rear setback from 10 feet to 5 feet for a shed, and Section 110.0.D.4.d.(1)(b)(i) to reduce the required side setback from 7.5 feet to 0 feet for a shed.

4. Adjoining properties to the north, east and south are similarly zoned R-SC and are developed with single-family detached dwellings. Adjoining parcels to the west across Mission Road are zoned M-1-MXD-3 and consist of vacant wooded parcels.

5. Parviz Vedadi testified in support of the petition and stated he is the owner of the subject Property. Mr. Vedadi stated that the existing house which he rents out is a legally non-complying structure since it was built before the adoption of zoning regulations in Howard County. Mr. Vedadi said that the addition to the house was attached to the house when he purchased the property and that the addition is for a bathroom connected to the master bedroom. Mr. Vedadi stated that the shed was also on the Property when he purchased the home and commented that the shed is situated in the corner of the property which is the least obtrusive location.

CONCLUSIONS OF LAW

The Board's authority in a variance petition hearing is limited to the petition's compliance with the four standards set forth in HCZR §130.0.B.2.a., which gauge the impact of the requested relief from certain bulk regulations, dimensional standards in the applicable zoning district, such as setbacks, lot coverage and building height.

Pursuant to this HCZR §130.0.B.2.a., the Board may grant a variance if the Petitioner demonstrates compliance with all four variance criteria. Based upon the foregoing Findings of Fact, and for the reasons stated below, the Board finds the requested variance complies with §§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 conditions, 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).

The Board finds what is unique about the Property is the location of the existing dwelling which predated the Zoning Regulations and the 30-foot setback requirement. A legally noncomplying structure is a unique physical condition causing Petitioner practical difficulty in complying with the setback requirements for the bathroom addition and placement of a shed on the Property.

(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 encroachment for the bathroom addition and shed are minor in nature and will 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 Petitioner did not create the practical difficulties or hardships.

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

The requested variances for the addition and a shed are reasonable and as such the Board concludes is the minimum necessary to afford relief.

ORDER


Based upon the foregoing, it is this 31ST day of December 2019, by the Howard County Board of Appeals, **ORDERED:**

That the petition of Parviz Vedadi (Petitioner), for variances from Section 110.0.D.4.d.(1)(c)(i) of the Zoning Regulations to reduce the required principal structure rear setback from 30 feet to 20.8 feet for a house addition, Section 110.0.D.4.d.(1)(c)(ii) to reduce the required accessory structure rear setback from 10 feet to 5 feet for a shed, and Section 110.0.D.4.d.(1)(b)(i) to reduce the required side setback from 7.5 feet to 0 feet for a shed in a R-SC (Residential: Single Cluster) zoning district is **GRANTED**.

ATTEST:

HOWARD COUNTY BOARD OF APPEALS

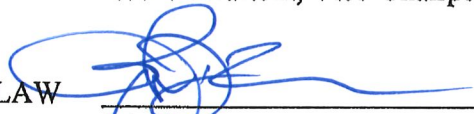

Robin Regner, Secretary



James Howard, Chairperson

James Howard
I am approving this document
Columbia, Maryland
2019.12.31 10:02:09 -05'00'

Did Not Participate
Neveen Kurtom, Vice-Chairperson

PREPARED BY:
HOWARD COUNTY OFFICE OF LAW
GARY W. KUC
COUNTY SOLICITOR


John Lederer


Barry M. Sanders
Assistant County Solicitor


Steven Hunt

Did Not Participate
William Santos