

IN THE MATTER OF : BEFORE THE  
**Cassandra Quandt** : HOWARD COUNTY  
Petitioner : HEARING EXAMINER  
: Case No. BA 21-021V  
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### **DECISION AND ORDER**

On October 7, 2021, the undersigned, serving as the Howard County Hearing Examiner, and in accordance with the Hearing Examiner Rules of Procedure, heard the petition of Cassandra Quandt, Petitioner, for variances from Sections 108.0.D.4.c.(l)(b) & (c)(ii) of the Howard County Zoning Regulations to reduce the side and rear setbacks to accommodate an existing accessory structure.

The Petitioner provided certification that notice of the hearing was advertised and certified that the property was posted as required by the Howard County Code. I viewed the property as required by the Hearing Examiner Rules of Procedure.

The Petitioner was not represented by counsel. The Petitioner and Alexander Tsanoff, the owners of the Property, appeared and testified in support. Gabriel Gutierrez, who lives at 10690 Old Bond Mill Road, testified in opposition to the Petition.

### **FINDINGS OF FACT**

**A. Property.** The Property is identified as Tax Map 46, Parcel 153, Lot 4, and the address is 10694 Stansfield Road, Laurel, MD 20723 (the "Property"). The Property is in the R-20 (Residential - Single) zoning district and is 0.42 acre.

**B. Vicinal Properties.** All adjoining properties are zoned R-20 and contain single family residences.

**C. Variance Requested.** The Petition is for residential variances to reduce the side setback from an adjoining lot from 10.0 feet to 2.5 feet, and to reduce the rear setback from 10.0 feet to 8.0 feet, to accommodate an existing accessory shed on a concrete slab. Dimensions of the shed are 21 x 16 x 10.

**D. Documents.** The following documents were admitted into the record:

- Pet. Ex. 1 - Survey of Property
- Pet. Ex. 2 - Photo of back yard
- Pet. Ex. 3 - Photo of front of shed
- Pet. Ex. 4 - Photo of side of shed

**E. Testimony.**

Cassandra Quandt and Alexander Tsanoff, the owners of the Property, testified and adopted the comments set forth in the Petition. In addition, Ms. Quandt testified that the shed is currently on the flattest part of the rear yard and that locating it elsewhere would be impracticable and cost prohibitive because the yard slopes from the rear boundary toward the house. Mr. Tsanoff testified that placing the shed anywhere else in the back yard would require grading of the yard.

Gabriel Gutierrez, who lives at the property adjoining the Property, testified that the shed was constructed by the former owners. He stated that his objection to the shed is that he has a shed in this yard in which he stores antique cars and he is concerned that if there were a fire in the shed on Petitioner's Property, it would spread quickly to his shed because of the proximity of the two sheds.

### **CONCLUSIONS OF LAW**

The standards for variances are contained in Section 130.B.2.a of the Zoning Regulations. That section provides that a variance may be granted “where all of the following determinations are made”:

(1) That there are unique physical conditions, including irregularity, narrowness or shallowness of 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.

(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.

(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.

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

(5) That no variance be granted to the minimum criteria established in Section 131.0 for Conditional Uses except where specifically provided therein or in an historic district. Nothing herein shall be construed to prevent the granting of variances in any zoning district other than to the minimum criteria established in Section 131.0.

Based upon the foregoing Findings of Fact, and for the reasons stated below, I find that the requested variance meets the criteria necessary for the granting of a variance and therefore shall be granted.

#### **1. Section 130.B.2.a (1)**

The first criterion for a variance is that there must be some unique physical condition of the property, e.g., irregularity of shape, narrowness, shallowness, or peculiar topography that

results in a practical difficulty in complying with the particular bulk zoning regulation. Section 130.B.2(a)(1). 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. Second, 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).

With respect to the first prong of the variance test, the Maryland courts have defined "uniqueness" thus:

In the zoning context, the 'unique' aspect of a variance requirement does not refer to the extent of improvements upon the property, or upon neighboring property. 'Uniqueness' of a property for zoning purposes requires that the subject property have *an inherent characteristic not shared by other properties in the area*, i.e., its shape, topography, subsurface condition, environmental factors, historical significance, access or non-access to navigable waters, practical restrictions imposed by abutting properties (such as obstructions) or other similar restrictions. In respect to structures, it would relate to characteristics as unusual architectural aspects and bearing or party walls. *North v. St. Mary's County*, 99 Md. App. 502, 514, 638 A.2d 1175 (1994) (italics added).

The Property is irregularly shaped with 6 sides. There are two lengths that form the rear boundary. The southwestern corner of the Property projects into a point. In addition, the Property is sloped from the rear (the highest point of the yard) toward the house. This unique condition disproportionately impacts the property such that placing the shed elsewhere would require grading and result in both practical difficulties and unnecessary hardships.

*The criteria set forth in Section 130.B.2.a (1) are met.*

**2. Section 130.B.2.a (2)**

I find 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. It will be consistent with other properties in the neighborhood, many of which include sheds and other accessory structures and outbuildings. The shed is located at the far rear corner and backs up to a part of the lot that borders a portion of 10695 Harding Road which is significantly distanced from the home on 10695 Harding Road. 10695 Harding Road appears to have at least one outbuilding on the lot. The lot owned by Mr. Gutierrez includes a much larger accessory structure and blocks at least part of the view of the Petitioner's shed from the house on 10690 Old Bond Mill Road. The shed is only slightly visible from Stansfield Road. I find that Mr. Gutierrez's concern about a fire hazard is unwarranted and, in any event, not a reason to deny this request.

*The Petitioner therefore meets the criteria of Section 130.B.2.a (2) of the Zoning Regulations.*

**3. Section 130.B.2.a (3)**

The hardships and practical difficulties were not self-created.

*The Petitioner has met the criteria of Section 130.B.2.a(3).*

**4. Section 130.B.2.a (4)**

The requested variances are the minimum variance necessary to afford relief. The shed is much smaller than the shed on 10690 Old Bond Mill Road, which Mr. Gutierrez stated is properly permitted, and appears to be smaller than some of the other sheds and outbuildings in the vicinity.

*Within the intent and purpose of the regulations, then, I find the requested variance is the minimum necessary to afford relief, in accordance with Section 130.B.2.a(4).*

5. **Section 130.B.2.a(5) [Not applicable to this Petition.]**

**ORDER**

Based upon the foregoing, it is this **8th day of November 2021**, by the Howard County  
Hearing Examiner:

**ORDERED**, that the request for variances from Sections 108.0.D.4.c.(1)(b) & (c)(ii) of the  
Howard County Zoning Regulations for residential variances to reduce the side setback from 10.0  
feet to 2.5 feet, and to reduce the rear setback from 10.0 feet to 8.0 feet, to accommodate an existing  
accessory shed on a on a concrete slab, is **GRANTED**.

**HOWARD COUNTY HEARING EXAMINER**

**Katherine  
L. Taylor**

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Date Mailed: 11/9/21

**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.