

IN THE MATTER OF

:

BEFORE THE

David Layer

:

HOWARD COUNTY

:

BOARD OF APPEALS

Petitioner

:

HEARING EXAMINER

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BA Case No. 25-009V

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DECISION AND ORDER

On August 4, 2025, 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 David Layer (Petitioner) for a variance to reduce the minimum structure and use side yard setback for a structure, from 30 feet to 20 feet, a variance of 10 ft, and a variance to reduce the minimum structure and use rear yard setback for a structure, from 30 feet to 24 feet, a variance of 6 feet, for a 18x22 pavilion/carport over an existing gravel parking pad, in Council District 5, Tax Map 2, Grid 24, Parcel 227, also identified as 16125 Patapsco Overlook Court, Mount Airy, Maryland, in the R-C (Rural Conservation) DEO (Density Exchange Option) Zoning District, filed pursuant to § 130.0.B.2 of the Howard County Zoning Regulations (the HCZR) for a variance from § 104.E.a.(3)(b).

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. David Layer (Petitioner) appeared in support of the Petition. No one appeared in opposition.

FINDINGS OF FACT

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

1. Property Identification and Description. The approximately 3.09-acre property is located at the terminus of Patapsco Overlook Court, north of its intersection with Old Frederick Road, and west of Woodbine Road. The subject Property lies in Council District 5, is identified as Tax Map 2, Grid 24, Parcel 227, and is known as 16125 Patapsco Overlook Court, Mount Airey, Maryland (the Property). The Property is developed with a single-family detached dwelling, garage, and garden shed, and is in a neighborhood of similar dwellings and lot sizes. The Property is an elongated narrow rectangle and is accessed via a pipestem drive. The single-family dwelling and garage are in the extreme southwestern corner of the Property. All of the Property lines adjoin similar sized lots developed with detached dwellings. The Property is heavily wooded and vegetated.

2. Vicinal Properties. The surrounding properties are also in the R-C DEO Zoning District and are developed with single-family detached homes.

3. Agency Comments. There are no agency or department comments in opposition to the proposed variance request.

4. Requested Variance. Petitioners are requesting a variance to reduce the minimum structure and use side yard setback for a structure, from 30 feet to 20 feet, a variance of 10 feet, and a variance to reduce the minimum structure and use rear yard setback for a structure, from 30 feet to 24 feet, a variance of 6 feet, for a 18x22 foot pavilion/carport to be located on an existing gravel parking pad.

CONCLUSIONS OF LAW

The standards of variances are contained in HCZR § 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 § 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 Exhibit, the Property is a narrow elongated rectangle located on a pipestem. As a result of the Property's shape, the dwelling and garage, by necessity, are sited close to the side and rear yard building restriction lines, and the existing gravel parking pad, located to the left side of the existing house and garage, extends beyond the allowable side and rear setbacks. The location of the existing garage and detached dwelling in the southwestern most corner of the Property renders the construction of a carport adjacent to the access driveway at any other location on the Property impossible. The gravel parking pad already exists and the carport will not expand the area of the parking pad. These existing physical constraints cause the Property Owners practical difficulty in complying with the current bulk area requirements for the minimum structure and use front yard setback for structures, of 50 feet, in accordance with §130.0.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 Property is an interior lot located on a pipestem in an area of developed detached single-family dwellings. The proposed pavilion/carport will not alter the character of the existing neighborhood. As a result of the pipestem, the heavily wooded lot, and the location and shape of the Property, the proposed pavilion/carport will have a limited, if not non-existent, view from Patapsco Overlook Court. The viewshed of the proposed pavilion/carport will be primarily shielded from neighboring dwellings by the existing vegetation, heavy woods and large lot sizes and shapes. The requested variance will not alter the essential character of the neighborhood and will not impact the appropriate use and development of adjacent properties as they have already been developed. The proposal to construct an 18x22 foot pavilion/carport will not be detrimental to the public welfare as it will not produce excessive noise, odors, dust, fumes, vibrations, or other adverse effects that would negatively impact vicinal properties.

The variance, if granted, will therefore not alter the essential character of the neighborhood in which the lot is located nor substantially impair the appropriate use or development of adjacent property, nor 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 practical difficulty and hardship in complying strictly with the bulk regulations requiring a 30-foot side and rear yard structure and use setbacks arises from the narrow elongated lot, the pipestem access, and the resulting siting of the dwelling and garage close to the 30-foot side and rear yard building restriction lines. These existing physical constraints result in only one area of buildable land adjacent to the existing garage and driveway in which to construct the proposed pavilion/carport. These circumstances were not created by the Property Owners, in accordance with §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 variances sought, a reduction of 10 feet from the minimum structure and use side yard setback for structures, and a variance of 4 feet from the minimum rear yard setback for structures is the minimum decrease necessary to permit the reasonable construction and use of a 18x22 foot pavilion/carport. Within the intent and purpose of the regulations, these variances are the minimum necessary to afford relief, in accordance with §130.0.B.2.a.(4).

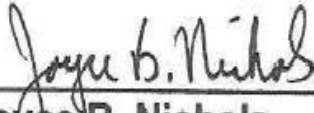
ORDER

Based upon the foregoing, it is this 4th day of August, 2025, by the Howard County Board of Appeals Hearing Examiner, **ORDERED:**

That the Petition of David Layer for a variance to decrease the minimum side yard structure and use setback for a structure, from 30 feet to 20 feet, a variance of 10 feet, and for a variance to decrease the minimum rear yard structure and use setback for a structure, from 30 feet to 24 feet, a variance of 6 feet, in order to construct a 18x22 foot pavilion/carport over an existing gravel carport, in Council District 5, Tax Map 2, Grid 24, Parcel 227, also identified as 16125 Patapsco Overlook Court, Mount Airy, Maryland, in the R-C (Rural Conservation) DEO (Density Exchange Option) Zoning District, be and is hereby **GRANTED**.

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