

IN THE MATTER OF : BEFORE THE  
**Viji Nathan** : HOWARD COUNTY  
 : BOARD OF APPEALS  
Petitioner : HEARING EXAMINER  
 : BA Case No. 26-001V

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**DECISION AND ORDER**

On June 9, 2026, 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 Viji Nathan (Petitioner) for a variance to reduce the minimum structure and use rear yard setback for a structure, from 10 feet to 3 feet, a variance of 7 ft, for an existing pool house and shed, in Council District 3, Tax Map 50, Grid 2, Parcel 412, Lots 3, 4, and 5, also identified as 10048 Superior Avenue, Laurel, Maryland, in the R-SC (Residential: Single Cluster) Zoning District, filed pursuant to § 130.0.B.2 of the Howard County Zoning Regulations (the HCZR) for a variance from § 110.0.D.4.d(1)(c)(ii).

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. Viji Nathan (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 0.56-acre property is located on the north side of Superior Avenue, south of Old Scaggsville Road, east of I-95 and north of the Patuxent River. The subject Property lies in Council District 3, is identified as Tax Map 50, Grid 2, Parcel 412, Lots 3, 4, and 5, and is known as 10048 Superior Avenue, Laurel, Maryland (the Property). The Property is developed with a single-family detached dwelling, 3 sheds, a pool house and an inground pool, and is in a development of similar dwellings and lot sizes. Petitioner purchased the Property approximately 2.5 years ago with the existing shed and pool house. The previous owner obtained all required permits but the location within the 10-foot rear yard setback was overlooked.

The Property is a rectangular shape. The topography of the Property slopes downward from the front of the Property towards the rear and then rises from the lowest point in the middle of the yard towards the rear of the Property, including the pool house and the shed which is the subject of the instant Petition. The rear of the Property, where the pool house and the shed are located, is adjacent to a drainage swale which is also adjacent to open space owned by a Homeowners Association for the adjoining

neighborhood. The side property lines adjoin similar sized lots developed with attached dwellings.

2. Vicinal Properties. The surrounding properties are also in the R-SC 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. The Requested Variance. Petitioner is requesting a variance to reduce the minimum structure and use rear yard setback for a structure, from 10 feet to 3 feet, a variance of 7 feet, for an existing pool house and shed.

### **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 rectangular shape. The topography of the Property slopes downward from the front of the Property towards the rear and then rises from the lowest point in the middle of the yard towards the rear of the Property, including the pool house and the shed which is the subject of the instant Petition. The rear of the Property, where the pool house and the shed are located, is adjacent to a drainage swale which is also adjacent to open space owned by a Homeowners Association for the adjoining neighborhood. The side property lines adjoin similar sized lots developed with detached dwellings. As a result of the Property’s topography, the pool house (converted from the existing garage) and shed, by necessity, are sited within the rear yard building restriction lines. The buildings’ locations and the sloping topography cause the Petitioner practical difficulty in complying with the current bulk area requirements for the minimum structure and use rear yard setback for structures, of 10 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 in a developed detached single-family dwelling subdivision. Petitioners' predecessor-in-interest obtained approval from the County for the conversion of the existing garage into the pool house. Unfortunately, the location of the pool house and shed within the rear yard setback was not considered during the permit approval process. The pool house and shed are not visible to the homes along Superior Avenue, and the land to the rear of the Property is open space owned by the adjacent neighborhoods HOA. Petitioner was not aware of the setback issue until after she purchased the Property. The existing pool house and shed do not alter the character of the existing neighborhood. The requested variance will not alter the essential character of the neighborhood and will not adversely impact the appropriate use and development of adjacent properties as they have already been developed. The proposal to legalize the existing pool house and shed will not be detrimental to public welfare as they will not produce excessive noise, odors, dust, fumes, vibrations, or other adverse effects that would negatively impact vicinal properties. Indeed, the pool house and shed are actually a benefit as an improvement to the subject Property.

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 10-foot rear yard structure and use setback arises from the topography of the Property which slopes downward from the front of the Property towards the rear and then rises from the lowest point in the middle of the yard towards the rear of the Property, including the pool house and the shed which is the subject of the instant Petition. The rear of the Property, where the pool house and the shed are located, is adjacent to a drainage swale which is also adjacent to open space owned by a Homeowners Association for the adjoining neighborhood. Petitioner did not create the existing hardship as the previous owner obtained all required permits from the County but the location of the shed and pool house within the rear yard building restriction line was overlooked by the permitting agencies. These circumstances were not created by the Property Owner, 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 variance sought, a reduction of 7 feet from the minimum structure and use rear yard setback for structures, is the minimum decrease necessary to legalize the existing pool house and shed. Within the intent and purpose of the regulations, this variance is the minimum necessary to afford relief, in accordance with §130.0.B.2.a.(4).

**(5) That no variance be granted to the minimum criteria established in Section 131.0 or 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.**

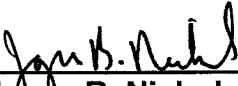
The Subject Property is not located in a Historic District.

**ORDER**

Based upon the foregoing, it is this 10th day of June, 2026, by the Howard County Board of Appeals Hearing Examiner, **ORDERED:**

That the Petition of Viji Nathan for a variance to decrease the minimum rear yard structure and use setback for a structure, from 10 feet to 3 feet, a variance of 7 feet, in order to legalize an existing pool house and shed, in Council District 3, Tax Map 50, Grid 2, Parcel 412, Lots 3, 4, and 5, also identified as 10048 Superior Avenue, Laurel, Maryland, in the R-SC (Residential: Single Cluster) Zoning District, be and is hereby **GRANTED.**

**HOWARD COUNTY BOARD OF APPEALS  
HEARING EXAMINER**

  
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**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.