

IN THE MATTER OF

Nicholas Bennett

Petitioner

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BEFORE THE

HOWARD COUNTY

BOARD OF APPEALS

HEARING EXAMINER

BA Case No. 26-003V

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DECISION AND ORDER

On July 31, 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 Nicholas Bennett (Petitioner) for (1) a variance to reduce the minimum structure and use front yard setback for a primary structure, from 30 feet to 29 feet, a variance of 1 ft, for an existing house, (2) a variance to reduce the minimum structure and use rear yard setback for a primary structure, from 30 feet to 29 feet, a variance of 1 ft, for an existing house, (3) a variance to reduce the minimum structure and use rear yard setback for an accessory structure, from 10 feet to 5.1 feet, a variance of 4.9 ft, for an existing shed, and (4) a variance to reduce the minimum structure and use side yard setback for an accessory structure, from 7.5 feet to 1.2 feet, a variance of 6.3 ft, for an existing shed, in Council District 3, Tax Map 43, Grid 14, Parcel 270, Lot 9, also identified as 8250 Mission Road, Jessup, 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.a(1)(a), from § 110.0.D.4.d(1)(c)(i), from § 110.0.D.4.d(1)(b)(i), and from § 110.0.D.4.d(1)(b)(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. Adam Baker, Esq. represented the Petitioner, Nicholas Bennett who appeared in support of the Petition. Paul Sill, engineer, also testified in support of the Petition. No one appeared in opposition.

Petitioner submitted the following exhibits:

1. Purchase deed
2. 2 aerial photos
3. Existing conditions photos
4. Zoning violation letter
5. Sill cv
6. Site plan
7. 1957 record plat

FINDINGS OF FACT

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

1. Property Identification and Description. The approximately 0.221-acre property is located on the north side of Mission Road, east of I-95, west of Washington Blvd (US

1), north of MD 32 and south of Waterloo Road. The subject Property lies in Council District 3, is identified as Tax Map 43, Grid 14, Parcel 412, Lot 9, and is known as 8250 Mission Road, Jessup, Maryland (the Property). The Property is developed with a single-family detached dwelling and a shed and is in a development of similar dwellings. Petitioner purchased the Property in 2009 with the existing home and subsequently erected a shed in the fall of 2024 without obtaining required permits. March 27, 2025, the Department of Planning and Zoning (DPZ) issued a zoning violation notice for constructing a shed without permits.

The Property is a rectangular shape. It is probably the smallest lot in the neighborhood. The lots on either side of the Property are twice as large and the lots to the rear of the Property are approximately five times as large as the subject Property. The topography of the Property slopes downwards between 5-7 feet from the rear to the front of the Property. The Property is heavily wooded with mature vegetation on the side and the rear of the Property. There is a sight tight board on board fence along the right side and rear of the Property. Both adjacent properties are improved with sheds located in approximately the same location as the instant shed.

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 Variances. Petitioner is requesting a (1) a variance to reduce the minimum structure and use front yard setback for a primary structure, from 30 feet to 29 feet, a variance of 1 ft, for an existing house, (2) a variance to reduce the minimum structure and use rear yard setback for a primary structure, from 30 feet to 29 feet, a variance of 1 ft, for an existing house, (3) a variance to reduce the minimum structure and use rear yard setback for an accessory structure, from 10 feet to 5.1 feet, a variance of 4.9 ft, for an existing shed, and (4), a variance to reduce the minimum structure and use side yard setback for an accessory structure, from 7.5 feet to 1.2 feet, a variance of 6.3 ft, for an existing 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 variances comply 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 small lot, perhaps the smallest lot in the neighborhood, which is improved with a single-family dwelling. The Property slopes approximately 5-7 feet from the rear to the front retaining wall. Due to the siting of the dwelling, along with existing mature vegetation, it has a very small backyard with no room to place a shed unless within a required setback. The home was constructed in 1958 and would have to be demolished in order to comply with front and rear yard setbacks. The buildings’ locations, the small size of the lot, existing mature vegetation and the sloping topography cause the Petitioner practical difficulty in complying with the current bulk area requirements for the minimum structure and use front and rear yard setbacks for principal structures, of 30 feet, and with the current bulk area requirements for the minimum structure and use side (7.5) and rear (10) yard setbacks for accessory structures, 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. The requested variances will not alter the essential character of the neighborhood, nor impair the appropriate use or development of adjacent property. If granted, the variance will not be detrimental to the public welfare. The Property is located in a residential subdivision and many of the houses are similarly oriented on their respective lots and have accessory structures in their side and rear yards. The shed will be located behind the house and will be screened by a sight tight board on board fence and existing mature vegetation. The shed is not visible to neighboring properties with the exception of the adjoining property which also has a shed of similar size and location as the subject Property. The proposal to legalize the existing 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.

The variances, 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 arises from the siting of the home and the small size and topography of the lot. Petitioner purchased the home, which was constructed in 1958, in 2009. Petitioner did not create the existing hardship, 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, if granted, are the minimum necessary to afford the relief. The location of the shed is optimal given its proximity to the existing single-family dwelling and the lot lines. The variances sought are the minimum decrease necessary to legalize the existing house and shed. 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).

(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.

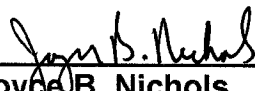
ORDER

Based upon the foregoing, it is this 3rd day of August, 2026, by the Howard County Board of Appeals Hearing Examiner, **ORDERED:**

That the Petition of Nicholas Bennett for (1) a variance to reduce the minimum structure and use front yard setback for a primary structure, from 30 feet to 29 feet, a variance of 1 ft, for an existing house, (2) a variance to reduce the minimum structure and use rear yard setback for a primary structure, from 30 feet to 29 feet, a variance of 1 ft, for an existing house, (3) a variance to reduce the minimum structure and use rear yard setback for an accessory structure, from 10 feet to 5.1 feet, a variance of 4.9 ft, for an existing shed, and (4) a variance to reduce the minimum structure and use side yard setback for an accessory structure, from 7.5 feet to 1.2 feet, a variance of 6.3 ft, for an existing shed, in Council District 3, Tax Map 43, Grid 14, Parcel 270, Lot 9, also identified as 8250 Mission Road, Jessup, Maryland, in the R-SC (Residential: Single Cluster) 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 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.