

IN THE MATTER OF	:	BEFORE THE
Chris Maclay	:	HOWARD COUNTY
	:	BOARD OF APPEALS
Petitioner	:	HEARING EXAMINER
	:	BA Case No. 26-016V

.....

DECISION AND ORDER

On September 14, 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 Chris Maclay (Petitioner) for a variance to exceed the 800 square feet maximum cumulative lot coverage for accessory structures for an existing accessory dwelling unit by 20% from 800 square feet to 1,000 square feet, an increase of 200 square feet, in Council District 1, Tax Map 38, Grid 4, Parcel/Lot 418, also identified as 5655 Railroad Avenue, ElkrIDGE, Maryland, in the R-12 (Residential: Single) Zoning District, filed pursuant to § 130.0.B.2 of the Howard County Zoning Regulations (the HCZR) for a variance from § 128.0.A.12.a(1)(A).

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. Chris Maclay (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 0.32-acre property is located on the east side of Railroad Avenue, south of Washington Blvd (Rt 1), east of the railroad tracks and west of I-195. The subject Property lies in Council District 1, is identified as Tax Map 38, Grid 4, Parcel/Lot 418, and is known as 5655 Railroad Avenue, Elkridge, Maryland (the Property). The Property is developed with a single-family detached dwelling and an accessory dwelling unit, and is in a neighborhood of similar dwellings and lot sizes. The Property is a very narrow elongated rectangular shape. The topography of the Property slopes downward from the rear of the main dwelling towards the storm drains located to the rear of the Property. This decrease in elevation is 3-4 feet and results in the water from the street flowing through the property into the storm drains. Most properties in this area have structures constructed in their rear yards.

2. Vicinal Properties. All adjoining properties are zoned R-12 and are developed with single-family detached dwellings. The parcels on the opposite side of Railroad Avenue are in the B-1 (Business: Local) zoning district.

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

The Department of Inspections, Licenses and Permits stated that a building permit will be required.

The Health Department opined that “this property is located within the metropolitan district and is served by public water and public sewerage. Therefore, Health has no objections to this particular variance request. Obviously, if this property was not located in the metropolitan it would not be large enough to support an ADU. SO it is important that Howard County agencies do take these proposals case by case, and really focus on the lot size and how much impervious structure is allowable relative to the acreage of these properties.”

4. The Requested Variance. Petitioner is requesting a variance to exceed the 800 square feet maximum cumulative lot coverage for accessory structures for an existing accessory dwelling unit by 20% from 800 square feet to 1,000 square feet, an increase of 200 square feet.

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 an extremely narrow rectangular shape. The topography of the Property slopes downward from the rear of the main dwelling unit towards the rear of the Property, a decrease in topography of 3-4 feet. Water from the street flows through the Property to storm drains located to the rear of the Property. The main dwelling is located to the front of the Property and access is via a shared driveway.

The house location, the lot shape, and the sloping topography cause the

Petitioner practical difficulty in complying with the current bulk area requirements of 800 square feet maximum cumulative lot coverage for accessory structures for an existing accessory dwelling unit, 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 neighborhood. Most of the lots are developed with structures in the rear yard. The existing accessory dwelling unit does not alter the character of the existing neighborhood and is architecturally compatible with the main dwelling. 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 accessory dwelling unit will not be detrimental to 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 current bulk area requirements of 800 square feet maximum cumulative lot coverage for accessory structures for an existing accessory dwelling unit arises from the Property's extremely narrow rectangular shape, the location of the existing main house, and the topography of the Property sloping downward from the rear of the main house, a decrease in topography of 3-4 feet, causing the water from the street to flow through the Property to storm drains located to the rear of the Property. These circumstances were not created by the Petitioner, 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, to exceed the 800 square feet maximum cumulative lot coverage for accessory structures for an existing accessory dwelling unit by 20% from 800 square feet to 1,000 square feet, an increase of 200 square feet, is the minimum increase necessary to legalize the existing accessory dwelling unit. 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.

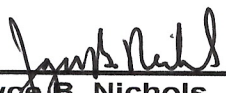
The Subject Property is not located in a Historic District.

ORDER

Based upon the foregoing, it is this 15th day of September, 2026, by the Howard County Board of Appeals Hearing Examiner, **ORDERED:**

That the Petition of Chris Maclay for a variance to exceed the 800 square feet maximum cumulative lot coverage for an accessory structure for an existing accessory dwelling unit by 20% from 800 square feet to 1,000 square feet, an increase of 200 square feet, in order to legalize an existing accessory dwelling unit, in Council District 1, Tax Map 38, Grid 4, Parcel/Lot 418, also identified as 5655 Railroad Avenue, ElkrIDGE, Maryland, in the R-12 (Residential: Single) 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.