

IN THE MATTER OF : BEFORE THE  
**WILLIAMSBURG GROUP, INC.** : HOWARD COUNTY  
Petitioner : BOARD OF APPEALS  
: HEARING EXAMINER  
: BA Case No. 12-003V  
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### **DECISION AND ORDER**

On March 19, 2012, 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 Williamsburg Group, Inc. for a variance to reduce the minimum lot width at the building restriction line from 47 feet to 22 feet for a single-family detached dwelling in an R-SC (Residential: Single Cluster) Zoning District, filed pursuant to Section 130.B.2 of the Howard County Zoning Regulations (the "Zoning Regulations").

The Petitioner certified to compliance with the notice and posting requirements of the Howard County Code. I viewed the property as required by the Hearing Examiner Rules of Procedure.

Thomas Meachum, Esquire, represented the Petitioner. Robert Corbett and Paul Sill testified on behalf of the Petitioner. No one appeared in opposition to the petition.

### **FINDINGS OF FACT**

Based upon the preponderance of evidence presented at the hearing, the Hearing Examiner finds the following facts:

1. Property Identification. The subject property is located on the south side of the terminus of Shaded Day, about 50 north of Skylark Boulevard. The property is officially identified as Tax Map 47, Grid 8, Parcel 5, Lot 19 of The Grove at Emerson subdivision (the Property) and is also known at 9861 Shaded Way.

2. Property Description. The 7,900 square-foot Property is located on a cul de sac terminus, causing it to have an irregular shape. The curving front lot line appears to be less than 20 feet in length, the easterly lot line, 99 feet, the rear lot line, 158 feet, and the westerly lot line, 118 feet.

3. Variance Request. The Petitioner is seeking a variance from Section 110.D.3 of the Zoning Regulations to reduce the required lot width at the building restriction line from 47 feet to 22 feet for a single-family detached dwelling.

4. Mr. Corbett, a Williamsburg Group Vice-President, testified that in 2011 Williamsburg Group purchased the lot from Howard Research and Development Corporation. After a contract was placed on the Property in late 2011, Williamsburg Group applied for and received a building permit. During a "wall check," the company learned it had exceeded the front setback restriction, which perplexed the company because it had relied on the site development plan (SDP) setback, which was set to coincide with all other setbacks along the street. The company subsequently learned that the record plat denoted a substantially different front setback deep into the property, 47 feet.

5. According to Mr. Corbett, compared to the other lots, the Property's unique configuration drives the setback so far into the lot that it could be developed only with a very

small dwelling in the buildable area and the dwelling would be set back behind the neighboring dwellings. The proposed house is almost identical to those on the street.

6. Mr. Sill testified that in the R-SC zone, the front setback is 20 feet and the BRL is 60 feet, which pushes the front setback further into the lot until the 60-foot width is met. Owing to the Property's unique shape, the recorded plat setback is 47 feet. The Department of Planning and Zoning, however, approved the SDP with a 20-foot offset.

#### **CONCLUSIONS OF LAW**

The standards for variances are contained in Section 130.B.2.a of the Regulations. That section provides a variance may be granted only if all of the following determinations are made. Based upon the foregoing Findings of Fact, and for the reasons stated below, I find the requested variance complies with Section 130.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.**

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. 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).

In this case, the Property's shape is unique, with the effect that the smaller frontage area pushed the BRL back to 47 feet, resulting in a very small building envelope. Consequently, the Hearing Examiner concludes the Property's shape causes practical difficulty in complying with the setback requirements, in accordance with Section 130.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 reduced setback will match the setbacks of other area dwellings, so the requested variance would not alter the essential character of the neighborhood or district in which the lots are located. The variance therefore will 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 Section 130.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 difficulties in complying strictly with the setback regulation arise from the Property's configuration and was not created by the Petitioner, in accordance with Section 130.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 proposed reduction is the minimum needed for a reasonable setback. Within the intent and purpose of the regulations, then, the variance is the minimum necessary to afford relief, in accordance with Section 130.B.2.a.(4).

**ORDER**


Based upon the foregoing, it is this **21<sup>st</sup> Day of March 2012** by the Howard County Board of Appeals Hearing Examiner, **ORDERED:**

That the variance petition of Williamsburg Group, Inc. to reduce the minimum lot width at the building restriction line from 47 feet to 22 feet for a single-family detached dwelling in a R-SC (Residential: Single Cluster) Zoning District, is **GRANTED;**

**Provided, however, that:**

1. The variance shall apply only to the uses and structures as described in the petition submitted and as testified to, and not to any other activities, uses, structures, or additions on the Property.

**HOWARD COUNTY BOARD OF APPEALS  
HEARING EXAMINER**



**Michele L. LeFaivre**

**Date Mailed:** \_\_\_\_\_

**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.