

BOARD OF APPEALS CASE NO. 4705 *

BEFORE THE

APPLICANT: Mark Adams *

ZONING HEARING EXAMINER

REQUEST: Variance to construct a deck within the rear yard setback; 712 Carlton Way, Bel Air *

OF HARFORD COUNTY

Hearing Advertised

Aegis: 4/9/97 & 4/16/97

Record: 4/11/97 & 4/18/97

HEARING DATE: June 18, 1997 *

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ZONING HEARING EXAMINER'S DECISION

The Applicant, Mark Adams, appeared before the Hearing Examiner requesting a variance to Section 267-36(B), Table V, and Section 267-23(C)(1)(a)(6) of the Harford County Code, to construct a deck within the required 26 foot rear yard setback in an R2 District.

The subject parcel is located at 712 Carlton Way in the Third Election District. The parcel is identified as Parcel No. 362, in Grid 1-D, on Tax Map 48. The parcel contains .2 acres, more or less, all of which is zoned R2.

Mr. Mark Adams appeared and testified that he is requesting a 5 foot area variance for a deck which he constructed in March 1997. The witness said that the overall dimensions of the deck is 14 feet by 44 feet and a 14 by 21 foot section of the deck is covered. Mr. Adams said the subject parcel is unique because of its unusual shape and also the angle the existing dwelling was placed on the parcel. The witness pointed out that if the house were placed square with the road, the variance would not be necessary because only one corner of the deck encroaches 5 feet in to the rear yard setback. The Applicant said he did not feel that approval of the variance would have a detrimental impact because he spoke to his neighbors on Lots 21 and 23, who did not express concern about the requested variance. The Applicant said that there is a cornfield to the rear of the parcel.

Case No. 4705 - Mark Adams

Mr. Raymon Graybeal appeared and testified that he owns and farms the property to the rear of the subject parcel. Mr. Graybeal pointed out that there is a landscape bufferyard easement between the subject parcel and his cornfield and that the Applicant has removed the vegetation from that easement. Mr. Graybeal indicated that several of the other property owners along that buffer had also removed the vegetation and he was concerned about the impact the removal of the vegetation would have on his property.

CONCLUSION:

The Applicant is requesting a variance to Section 267-36(B), Table V, which requires a 26 foot rear yard setback and Section 267-23(C)(1)(a)(6), which provides:

“The following structures shall be allowed to encroach into the minimum yard requirements, not to exceed the following:

6. Unenclosed patios and decks: Up to but not exceeding 25% of the side or rear yard setback for the district. No accessory structure shall be located within any recorded easement.”

The Applicant is requesting a 5 foot area variance and testified that the property is unique because of its shape and the location of the dwelling on the parcel. The Applicant also testified that he did not feel the variance would be detrimental to adjacent properties. However, the owner of the property to the rear of the subject property appeared and testified that the Applicant has removed the vegetation from a landscape bufferyard easement.

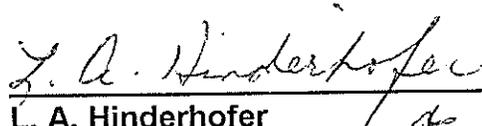
It is the finding of the Hearing Examiner that the subject parcel is unique for the reasons stated by the Applicant in his testimony and that the variance will not be substantially detrimental to adjacent properties or materially impair the purpose of the Code, provided that the Applicant replace the landscape buffer which he removed.

Case No. 4705 - Mark Adams

Therefore, it is the recommendation of the Hearing Examiner that the requested variance be approved, subject to the following conditions:

1. The Applicant obtain all necessary permits and inspections for the deck and roof.
2. No portion of the deck shall be enclosed without obtaining the necessary permits and approvals.
3. The Applicant shall prepare and submit to the Department of Planning and Zoning a plan to re-vegetate the buffer. This re-vegetation plan shall be submitted within 30 days of the date of this decision and shall be implemented not later than October 15, 1997.

Date JULY 15, 1997



L. A. Hinderhofer *ds*
Zoning Hearing Examiner