

BOARD OF APPEALS CASE NO. 5053

*

BEFORE THE

APPLICANT: L. Ellis Bailey

*

ZONING HEARING EXAMINER

REQUEST: Variance to construct a deck within the recorded easement and side yard setback; 2206 Gelding Way, Bel Air

*

OF HARFORD COUNTY

*

Hearing Advertised

*

Aegis: 6/7/00 & 6/14/00

HEARING DATE: July 19, 2000

*

Record: 6/9/00 & 6/16/00

* * * * *

ZONING HEARING EXAMINER'S DECISION

The Applicant, L. Ellis Bailey, is requesting a variance pursuant to Section 267-26C(5)(b) and (6) of the Harford County Code to erect a deck with fence around a trampoline closer than the 3 foot setback requirement (1 foot proposed), and to locate the structure within a drainage and utility easement.

The subject parcel is located at 2206 Gelding Way, Bel Air, Maryland 21015 and is more particularly identified on Tax Map 56, Grid 2E, Parcel 581, Lot 13. The property consists of 0.192 acres and is located within the Hunter's Run subdivision. The property is zoned R2/COS Urban Residential/Conventional Open Space and is entirely within the First Election District.

The Applicant appeared before the Hearing Examiner and testified that he wishes to put a trampoline in his back yard for the use of his five children. He proposes a deck with safety rail around it which would minimize the possibility of a user falling off and going downhill. The witness described his property as small and sloping steeply from the house rearward to the back of the property. He stated that there was no other place on the parcel to place the trampoline than that proposed because of the slope and the limited flat areas available. The deck and fence are being proposed not only for their aesthetic value but because of the Applicant's concerns for safety of the children who may use the trampoline. The Applicant did not feel that the minor variance to the setback requirement would result in any adverse impact to adjoining properties, nor would the purposes of the Harford County Code be impaired. The Applicant said that there were other homes in his neighborhood with outdoor trampolines. Lastly, the Applicant entered into evidence a letter of approval penned by MRA Property Management, Inc. who granted their approval of the request.

Case No. 5053 - L. Ellis Bailey

There were no persons who appeared in opposition to the request.

The Department of Planning and Zoning pointed out in its staff report dated July 3, 2000, that, "The subject property contains unique features. The topography of the property as well as the location of the Natural Resources District and woods limits the amount of usable area on the lot." The Department of Planning and Zoning did express some concern that reduction of the setback to one foot might prevent the addition of landscaping in that area.

CONCLUSION:

Section 267-26C(5)(b) provides:

"Residential detached accessory structure: six (6) feet from any principal structure and three (3) feet from side or rear yard lot lines except for lots with recorded easements. For lots with recorded easements, the setback shall be equal to the width of the recorded easement."

Section 267-26C(6) provides:

"No accessory use or structure, except fences, shall be located within any recorded easement area."

Section 267-11 provides for variances from the provisions of the Code and states:

"Variances from the provisions or requirements of this Code may be granted if the Board finds that:

- (1) By reason of the uniqueness of the property or topographical conditions, the literal enforcement of this Code would result in practical difficulty or unreasonable hardship.
- (2) The variance will not be substantially detrimental to adjacent properties or will not materially impair the purpose of this Code or the public interest."

Case No. 5053 - L. Ellis Bailey

The Applicant has demonstrated to the satisfaction of the Hearing Examiner that his property is topographically unique in that it is small, sloping and contains areas of NRD and substantial easement area which severely limit the usable outdoor space. The proposed location of the trampoline, deck and fence are the only practical one and the Hearing Examiner can find no other suitable location for the structure on Applicant's property. The Hearing Examiner finds that the structure will not result in adverse impacts to adjacent properties nor will it impair the purposes of the Code. The Hearing Examiner is mindful of the Department of Planning and Zoning's concerns regarding inadequate landscaping area resulting from the reduction of the setback, however there is ample wooded area on this and adjoining properties to overcome this objection.

The Hearing Examiner recommends approval of the Applicant's request subject to the conditions that the Applicant obtain all necessary permits and inspections.

Date JULY 26, 2000

William F. Casey
Zoning Hearing Examiner