

APPLICANTS:
Charles and Paulette Romano

REQUEST: A variance to permit an addition to encroach the 50 foot front yard setback

HEARING DATE: January 12, 2005

BEFORE THE
ZONING HEARING EXAMINER
FOR HARFORD COUNTY
BOARD OF APPEALS

Case No. 5460

ZONING HEARING EXAMINER'S DECISION

APPLICANTS: Charles and Paulette Romano

LOCATION: 2313 Cheyenne Avenue – Indian Princess, Joppa
Tax Map: 55 / Grid: 4E / Parcel: 646 / Lot: 1
Third Election District (3rd)

ZONING: RR / Rural Residential

REQUEST: A variance, pursuant to Section 267-35B, Table III, of the Harford County Code, to permit an addition to encroach the minimum 50 foot front yard setback (37 foot setback proposed).

TESTIMONY AND EVIDENCE OF RECORD:

First testified the Applicant, Charles A. Romano, who stated he was requesting a variance in order to construct an addition to the side of his home.

Mr. Romano described his property as being 1.36 acres in size, improved by a three (3) bedroom, single family home. Within the home reside Mr. and Mrs. Romano and their two (2) daughters. The house was purchased about seven (7) months ago by the Applicants, who have now decided, due to the size of their family, to add an addition. The existing bedrooms are very small and they feel additional living space is necessary.

Mr. Romano testified that an addition could not be built to the rear of his home as the septic system is located in that area. The addition could not be placed on the opposite side of the house from that proposed as that is the kitchen side, and Mr. Romano does not want to be forced to enter bedrooms through the kitchen. That side also faces Maryland Route 152 and is subject to impact by traffic noise. Furthermore, the well is located to the front of the house which precludes the garage from being located in that area.

The addition itself will be approximately 20 feet wide with both vinyl siding and roofing material which will match that of the existing improvements. Mr. Romano has spoken to his neighbors, none of whom have objected to the proposed request.

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Mr. Romano described two other unusual features of his property: the house does not sit squarely on the lot, being somewhat diagonal from the adjoining roads; and the house is impacted by a 50 foot setback, where most other homes in his area are only required to adhere to a 40' front yard setback.

Next for the Harford County Department of Planning and Zoning testified Anthony McClune. Mr. McClune indicated that he had reviewed the Applicants' request. Mr. McClune noted that the Department does not normally recommend approval of requests for front yard setback variances. However, he believes this case is of such an unusual nature that approval is warranted.

The property is unique, in Mr. McClune's opinion. The lot was recorded with a 50 foot setback requirement, although all other lots in the area have a 40 foot setback only. The Staff Reports notes that a plat could be recorded in order to reduce the required setback to 40 feet.

Because of the angle of the dwelling on the lot, the area in which a potential addition could be constructed is highly constrained. Only a very small portion of the proposed addition will actually come to within 40 feet of the road.

Mr. McClune found that the proposed addition would not impact any existing roadway or traffic conditions, and would not adversely impact the neighborhood.

There was no testimony or evidence presented in opposition.

APPLICABLE LAW:

Section 267-11 of the Harford County Code allows the granting of a variance to the requirements of the Code:

"Variances.

- A. Except as provided in Section 267-41.1.H., variances from the provisions or requirements of this Part 1 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 Part 1 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 Part 1 or the public interest.*

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- B. *In authorizing a variance, the Board may impose such conditions regarding the location, character and other features of the proposed structure or use as it may deem necessary, consistent with the purposes of the Part 1 and the laws of the state applicable thereto. No variance shall exceed the minimum adjustment necessary to relieve the hardship imposed by literal enforcement of this Part 1. The Board may require such guaranty or bond as it may deem necessary to insure compliance with conditions imposed.*

- C. *If an application for a variance is denied, the Board shall take no further action on another application for substantially the same relief until after two (2) years from the date of such disapproval.”*

FINDINGS OF FACT AND CONCLUSIONS OF LAW:

As can be seen by the Applicants’ site plan (Attachment 3 to the Staff Report) their house is located in a fairly unusual way on its lot and is impacted by a 50 foot setback requirement, which is 10 feet more than was necessary at the time the lot was improved.

The Applicants desire to construct a 20 foot wide addition, which would be very similar in its construction and in appearance to the Applicants’ house. The addition would not cause an adverse impact to the neighborhood and will, in fact, in all likelihood be seen by the neighbors as an improvement to the neighborhood. Because of the extra-deep front yard setback, a well to the front of the house, and a driveway and septic area to the side, the addition can only be located in the area proposed. If the property’s front setback were only 40 feet, as are all other homes in the area, the addition itself would only violate the setback by 3 feet. It is accordingly found that the subject property is unique.

The Applicants cannot construct the addition, which is one similar to many others within Harford County and which would be an attractive improvement to the house, without the variance requested. The Applicant’s difficulty if the variance is not granted is they would clearly be unable to construct such an addition anywhere on their property. The request is the minimum relief necessary, particularly in light of the fact that the property is constrained by a setback 10 feet wider than any other home in the area, and 10 feet wider than is required by Code. The request, if granted, would have no adverse impact on the neighbors or neighborhood.

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CONCLUSION:

It is accordingly recommended that the proposed request be granted, subject to the following conditions:

1. That Applicants shall obtain all necessary permits and inspections.
2. The Applicants shall provide landscaping between the addition and the two roads.
3. The Applicants shall submit a landscaping plan to the Department of Planning and Zoning for approval prior to application for a building permit.
4. That the addition be constructed to match, to the extent possible, the color, construction, roof texture and roof color, of that of the existing home.

Date: February 9, 2005

ROBERT F. KAHOE, JR.
Zoning Hearing Examiner