

APPLICANTS:
David & Amelia Prochazka

REQUEST:
**A variance to construct an addition
within the required side yard setback**

HEARING DATE: September 21, 2005

**BEFORE THE
ZONING HEARING EXAMINER
FOR HARFORD COUNTY
BOARD OF APPEALS
Case No. 5499**

ZONING HEARING EXAMINER'S DECISION

APPLICANTS: David & Amelia Prochazka

LOCATION: 1723 Trotting Court – Steeplechase Manor, Jarrettsville
Tax Map: 32 / Grid: 4C / Parcel: 407 / Lot: 38
Fourth (4th) Election District

ZONING: RR / Rural Residential District

REQUEST: A variance, pursuant to Section 267-35(B), Table III, of the Harford County Code, to permit an addition within the required 15 foot side yard setback (7 foot setback proposed), in the RR District.

TESTIMONY AND EVIDENCE OF RECORD:

David Prochazka, Applicant, described his proposed addition as a garage which will impact approximately 8 feet into the required 15 foot side yard setback. The Applicants' property is a single-story, brick rancher with a wooden deck. On the property is also located a wooden shed for yard equipment. The lot size is approximately 0.7 of an acre, located in the Steeplechase Manor subdivision.

Even with the variance the garage, after its construction, will remain at least 72 feet distant from the nearest neighbor. The Applicants' property is also located 52 feet from the nearest neighbor on the opposite or left side as one were facing the property from Trotting Court.

The Applicant described his property as being pie shaped, narrow in the front and wider in the back. The site plan submitted by the Applicant and marked as Attachment 4 to the Staff Report shows the lot having a northerly side yard length of approximately 230 feet; southerly lot length of 223 feet; rear lot dimension of approximately 211 feet; and a front lot dimension of very roughly 100 feet, although the front yard lot line actually curves along Trotting Court.

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The Applicant testified that while the lot is much wider to its rear, a 10,000 square foot septic waste disposal reserve area is located in that area. The existence of the waste disposal area greatly limits the available lot area to the rear of the home. The northerly side of the property, or the left side as one were facing the property from Trotting Court, is approximately 22 feet from the property line to the house which would, if the garage were located in that area, also require a setback variance.

The Applicant justified the size of the proposed garage by asserting that it must contain an interior set of stairs from the basement of the house to the garage. The Applicants' bedroom is on the proposed garage side of the house, and it would be impractical to access the garage through that area. Interior access is necessary due to the medical condition of the Co-Applicant, Amelia Prochazka. The interior stairway adds about 3 feet to the width of the garage, and accordingly accounts for approximately 3 feet of the variance requested.

The Applicants believe that their proposed two-car garage, which will be approximately 20 feet wide, is similar to others in the neighborhood. Based upon the Applicant's measurements, other garages in the area vary from 18 to 24 feet wide in size. Accordingly, a 20 foot wide garage would be small for the area. The Applicant, based upon his survey, found that most of the neighborhood homes have two-car garages. Only a few have no garages at all.

For the Harford County Department of Planning and Zoning testified Dennis Sigler. Mr. Sigler, in reiterating the findings of the Staff Report, indicated that the property is uniquely shaped. It is one of the smallest in the neighborhood. The proposed garage could not be built to the rear of the property because of the existing septic reserve area, and cannot be built on the other side of the home without a variance at least as great as that requested. The garage addition would be closer to the adjoining residence if built on the side opposite to that proposed. There are no detached garages in the neighborhood and, in fact, most of the homes in the neighborhood have existing two car garages similar to that proposed by the Applicant.

Mr. Sigler believes there will be no adverse impact if the proposal is granted. The neighbor on the side impacted by the variance has requested there be no additional landscaping installed. Accordingly, the Department makes no recommendation for additional landscaping. Construction of the garage, according to the information provided by the Applicant, will match the construction of the existing residence.

There was no evidence or testimony presented in opposition.

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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.

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:

The subject property is located on a cul-de-sac and accordingly exhibits fairly unusual dimensions. The front of the property is relatively narrow, and the rear of the property is rather broad. Accordingly, most of the developable space of the property is located in the near of the property. However, that area is heavily constrained by a 10,000 square foot septic reserve area on which the proposed addition cannot be constructed. A variance to the opposite side yard setback requirement is possible, but it would also place the addition closer to the neighbor to that side than on the neighbor on the side proposed.

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The Department of Planning and Zoning, in its Staff Report, recommends approval of the proposed variance due to the lot’s unique configuration. Staff also notes that the lot is on one of the smallest in that neighborhood, and that the proposed garage will be compatible with others in the neighborhood.

Attachment 4 to the Staff Report, which is a site plan of the lot, amply demonstrates the lot’s unusual configuration. The lot frontage is less than one-half the width of the back lot line. Due to the lots’ location on this cul-de-sac, if the lot had even slightly more symmetrical dimensions this variance would not be necessary. Such a condition is adequate to support a finding of uniqueness.

It is accordingly found that the Applicants suffer practical difficulty due to the unusual lot dimensions of their lot. The Applicants’ resulting difficulty is the inability to build a garage similar to others in their neighborhood without the variance. It is further found that they there should be no adverse impact on any surrounding property owner, or property. The requested variance should enable an improvement to be constructed to the Applicants’ house which will benefit not only the Applicants but also the neighborhood at large.

CONCLUSION:

It is according recommended that the requested variance be granted, subject to the following:

1. The Applicants shall obtain all necessary permits and inspections for the construction of the garage and addition.
2. The garage shall not be used in the furtherance of a business.
3. The garage shall not be used for the storage of commercial vehicles or constructor’s equipment.

Date: October 7, 2005

ROBERT F. KAHOE, JR.
Zoning Hearing Examiner

Any appeal of this decision must be received by 5:00 p.m. on NOVEMBER 4, 2005.