

APPLICANTS:
Dennis & Patricia Mezzanotte

REQUEST: A variance pursuant to Harford County Ordinance 6, Sec. 10.05 of the Harford County Code, to allow an addition within the required 35 foot rear yard setback in the R3 District

HEARING DATE: December 14, 2005

BEFORE THE
ZONING HEARING EXAMINER
FOR HARFORD COUNTY
BOARD OF APPEALS

Case No. 5518

ZONING HEARING EXAMINER'S DECISION

APPLICANTS: Dennis & Patricia Mezzanotte

LOCATION: 200 Bridge Drive – Rumsey Island, Joppa
Tax Map: 69 / Grid: 1A / Parcel: 238 / Lot: 31
First (1st) Election District

ZONING: R3 / Urban Residential

REQUEST: A variance, pursuant to Harford County Ordinance 6, Sec. 10.05 of the Harford County Code, to allow an addition within the required 35 foot rear yard setback (15 foot setback proposed) in the R3/CDP District.

TESTIMONY AND EVIDENCE OF RECORD:

The Applicants own an approximately one-quarter acre parcel located at 200 Bridge Drive, Rumsey Island, Joppa. The property is improved by a three bedroom, one bathroom, bi-level dwelling, with attached garage to the left side of their house. The property is a corner lot, with the home facing Bridge Drive, but with frontage also along Shore Drive.

The Applicants have requested this variance in order to construct a 25 foot by 25 foot addition onto the back side of their home. The addition will be used as a family room and laundry facility. The family room would also function as an access to the garage, which currently has no interior access.

According to the Applicant, Dennis Mezzanotte, the addition cannot be built on the Shore Drive side of the property as that is the current location of the attached garage. The opposite side of the house, or the right side of the house as one were facing it, is set back 33 feet from the property line, which, in the Applicants' opinion, is insufficient space to construct the addition. Furthermore, the house, being a bi-level, does not contain an at-grade floor on the right side, which would make it very difficult to construct a ground level addition at that location.

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Accordingly, in the Applicants' opinion the only practical location for the construction of an addition is to the rear. However, the rear yard setback is 35 feet, whereas Mr. and Mrs. Mezzanotte only have 40 feet available from the rear wall of their home to that property line. Accordingly, this variance is requested.

Mr. Mezzanotte has discussed his request with his immediate adjoining neighbors, and none has expressed any opposition.

Mr. Mezzanotte's application gave the following reasons for requesting the variance:

- The house is located approximately 7 feet behind the front yard setback off Bridge Drive. If the home had been located directly on the front yard setback line, the requested variance would not be necessary.
- The distance between the home and the front yard setback line along Shore Drive is sufficient, but the addition cannot be built here because of the existing garage.

Next testified Anthony McClune of the Harford County Department of Planning and Zoning. Mr. McClune described the property as unique. It is impacted by two front yard setbacks, one along Shore Drive and the other on Bridge Drive. The dwelling itself is located substantially behind the front yard setback line of Shore Drive, which is a 25 foot required setback. Accordingly, the lot line opposite Shore Drive is a side yard setback, not a rear yard setback.

If the house had been fronted on Shore Drive, no rear yard setback would have been necessary for the construction of the proposed addition. If the house had been situated closer to Shore Drive but facing Bridge Drive, there would have been no need for a variance as an addition could have been put on the side of the property. However, Mr. McClune believes that it would be very impractical to place an addition on the right side of the house since the house is a bi-level. A one story addition would not match-up to the existing bi-level side of the home.

The Staff Report states:

“The subject lot is a corner lot and is subject to front yard setbacks from both Shore and Bridge Drives. The developer chose to center the dwelling on the lot facing Bridge Drive. The dwelling is located 32 feet back from Bridge Drive with is approximately 7" feet behind the required setback. Had the dwelling been located on the Shore Drive setback line or even 2-feet closer in that direction the rear yard could have been designated along the northern property line adjacent to Lot 32. This would have allowed the room to be constructed without requiring Board of Appeals approval.”

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There was no testimony or evidence given in opposition.

APPLICABLE LAW:

The Applicants are governed by the provisions of Ordinance 6, Section 10.05 of the 1957 Zoning Ordinance which requires a 35 foot rear yard setback.

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.”*

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FINDINGS OF FACT AND CONCLUSIONS OF LAW:

The Applicants reside in a modestly sized, three bedroom, one bath home located in the Joppa area of Harford County. The house is a bi-level, with a garage on the side opposite the “bi-level” portion of the house. This is a design typical of many others in its neighborhood. However, the design is somewhat restrictive in that it is impractical to build an addition on either side of the home.

The Applicants desire to construct a typically sized addition to the home, to serve as a family room, a bathroom, and to also provide laundry facilities. Again, there is nothing unusual about the addition or the Applicants’ desire to construct such an addition onto the home.

The Applicants are, however, constrained in their ability to construct the addition by not only the nature of the construction of the existing home, but also the fact that they live on a corner lot which has two front yard setbacks. The house itself is located somewhat oddly on the lot, being approximately 7 feet behind the Bridge Drive setback line, and what appears to be at least 25 feet behind the Shore Drive setback line. A relocation of the home closer to either of these setback lines would have either freed-up space to the “rear” of the property which could have made the requested variance much less severe, or would have resulted in a reconfiguration of the lot line which would have resulted in what is now the rear lot line (adjacent to Lot 30) being determined to be the side yard setback line. If this had been determined to be a side yard setback, no variance at all would have been necessary. If the house were fronted on Shore Drive, no variance would be necessary.

It is, accordingly, found that the circumstances of the Applicants are unusual, as this bi-level house is located in an unusual fashion with regard to its varying setback lines, on a corner lot. All of these factors combine to present a hardship for the Applicants in that they are unable to construct an addition typical of others in the neighborhood and throughout Harford County without the requested variance. It is further found that the variance requested is the minimum necessary in order to allow the Applicants the requested relief.

It is further found that there will be no harm to any existing neighbor or to the neighborhood.

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CONCLUSION:

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

1. The Applicants obtain all necessary permits and inspections for the construction of the proposed addition.
2. The Applicants shall submit a final landscaping plan to the Department of Planning and Zoning for review and approval. The Applicants shall provide plantings between the proposed addition and the adjacent Lot 30.
3. The construction, exterior treatment and colors, of the proposed addition shall match to the extent possible that of the existing dwelling.

Date: January 9, 2006

ROBERT F. KAHOE, JR.
Zoning Hearing Examiner

Any appeal of this decision must be received by 5:00 p.m. on FEBRUARY 7, 2006.