

**APPLICANTS:**  
**Charles & Linda Seubert**

**REQUEST: Variance to permit an addition within the required rear yard setback in the R4 District**

**HEARING DATE: August 8, 2007**

**BEFORE THE  
ZONING HEARING EXAMINER  
FOR HARFORD COUNTY  
BOARD OF APPEALS**

**Case No. 5604**

**ZONING HEARING EXAMINER'S DECISION**

**APPLICANT:** Charles S. Seubert, Jr.

**CO-APPLICANT:** Linda M. Seubert

**LOCATION:** 3244 Meadow Valley Drive – Box Hill South, Abingdon  
Tax Map: 61 / Grid: 2F / Parcel: 448 / Lot: 42  
First (1) Election District

**ZONING:** R4 / Urban Residential District

**REQUEST:** A variance, pursuant to Section 267-36(B), Table VII, of the Harford County Code, to permit an addition within the required 30 foot rear yard setback (25 foot setback proposed), in the R4/PRD District.

**TESTIMONY AND EVIDENCE OF RECORD:**

Charles S. Seubert, Jr., Co-Applicant, testified that he and his wife are seeking a 5 foot variance to the required 30 foot rear yard setback in order to build an addition to the rear of their existing home. The Applicants purchased the subject property in 2001 and live there with their six children. His lot is approximately 7,800 square feet, and is improved by a two-story Colonial with a walk-out basement. Mr. Seubert improved the front of the home by adding a full porch, and has constructed an above-ground pool and shed in the rear yard. The house is also improved by a deck to its rear.

No doubt seeking additional space for their family, the Applicants desire to add a two-story addition to the rear of their home. The addition would be elevated above the ground level, to begin at the first floor level and extend to the second floor level. The basement walk-out area will remain open. The addition at the first story level would roughly mirror the area of the existing deck, whereas the second story portion of the addition would extend for an additional 8 feet (approximately) along the back of the house. The addition would add a family room on the first floor and additional bedrooms on the second floor. Computer generated drawings, marked in the file as Exhibit Nos. 1, 2 and 3, show the approximate configuration of the home after the addition is constructed.

## **Case No. 5604 – Charles & Linda Seubert**

Mr. Seubert explained, in attempting to support his request for a variance, that almost all other homes on his street are setback 26 feet from their front lot line; however, his home, as well as the home of a neighbor, was set back approximately 31 feet. Mr. Seubert had no explanation as to why his home and his neighbors' home were set farther back than required from the front yard lot line. The Applicant suggests that if his home had not been setback the additional 5 feet, the requested variance would not be necessary. Mr. Seubert also noted that his neighbor had received a zoning variance similar to that requested by the Applicant.

Mr. Seubert envisions no adverse impact to any neighbor or to his neighborhood. None of his neighbors have expressed any opposition. Furthermore, no homes are located to the rear of the Seubert residence, as it backs up to an open space area.

Mr. and Mrs. Seubert also indicated that the construction and appearance of the addition will be similar in style and material to that of the existing home.

Next for the Harford County Department of Planning and Zoning testified Anthony McClune. Mr. McClune verified that the Applicants' home is set back approximately 30.7 feet from the front lot line, whereas the required setback is 25 feet. Mr. McClune sees no adverse impact to the neighborhood, believing the property is unique.

The Harford County Department of Planning and Zoning Staff Report states, inter alia;

*“The Department finds that the subject property is unique. The dwelling was located substantially behind the front setback compared to other homes on this road. The adjacent lot (Lot 4) was also setback from the front setback line and received a similar variance in Case #5202 (Attachment 14). There are no homes to the rear of the Applicants property. The request, if approved, will not adversely impact any adjacent properties or the intent of the code.”*

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:*

## **Case No. 5604 – Charles & Linda Seubert**

- (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 Applicants have demonstrated that their home, together with an immediately adjacent house, are situated differently on their respective building lots than are all other houses in their neighborhood, and are, as a result, impacted differently by the requirements of the Development Regulations.

Interestingly, and for no particular reason, the Applicants' house and the neighbors' house were set back approximately 6 feet beyond the front yard setback line in this neighborhood of roughly 8,000 square foot lots. Obviously, by not locating homes along the front yard setback line, particularly given the relatively small size of the lots in question, the ability of the affected lot owners to improve their homes is severely impacted.

The Applicants have a relatively large family and wish to increase the size of the home by adding a modest addition to its rear. That addition, as planned, cannot be built because the house had been set back approximately 6 feet beyond the front setback line. No other home, except for that of the neighbor, is similarly impacted.

**Case No. 5604 – Charles & Linda Seubert**

Furthermore, that neighbor was also granted a variance which allowed a similar impact to the setback requirements. (See Case No. 5202, decided February 25, 2005).

It is clear that the pertinent Code provision, i.e., the requirement that a rear setback of 30 feet be maintained, impacts the Applicants more than others in their neighborhood due to the unusual location of their home some 6 feet beyond the front yard setback line. For this reason the Applications suffer a practical difficulty in not being able to construct an addition similar to others in their neighborhood and within Harford County.

There is no finding of adverse harm and, in fact, the addition, if constructed as proposed, should be an asset to the neighborhood.

**CONCLUSION:**

For the above reasons, it is recommended that the requested variance be granted, subject to the following:

1. That the Applicants obtain all necessary permits and inspects for the addition.
2. That the appearance and construction of the addition be similar to that of the existing home.

Date: September 4, 2007

ROBERT F. KAHOE, JR.  
Zoning Hearing Examiner

**Any appeal of this decision must be received by 5:00 p.m. on OCTOBER 4, 2007.**