

APPLICANTS:
Jefferson & Janet Wallen

REQUEST: A variance to permit an addition within the required rear yard setback in the RR District

HEARING DATE: January 16, 2008

BEFORE THE
ZONING HEARING EXAMINER
FOR HARFORD COUNTY
BOARD OF APPEALS

Case No. 5635

ZONING HEARING EXAMINER'S DECISION

APPLICANT: Jefferson P. Wallen

CO-APPLICANT: Janet D. Wallen

LOCATION: 2537 Hess Road – Huntington subdivision, Fallston
Tax Map: 38 / Grid: 4E / Parcel: 111 / Lot: 97
Fourth (4th) Election District

ZONING: RR / Rural Residential District

REQUEST: A variance, pursuant to Section 267-35B, Table III, of the Harford County Code, to permit an addition within the required 50 foot rear yard setback (40 foot setback proposed), in the RR District.

TESTIMONY AND EVIDENCE OF RECORD:

Co-Applicant Janet D. Wallen described the subject property as a 0.68 acre tract, improved by a bi-level single family residence with attached one-car garage and a freestanding accessory storage building. With a permit, a concrete deck with an attached screen porch has been constructed, having dimensions of approximately 12 feet by 15 feet.

More recently, not knowing an additional permit was necessary, the Applicants began to enclose the screened porch in order to convert it to a sunroom. Photographs in the file, marked as Attachment 10 B, C and D to the Staff Report, show a partially completed sunroom having a roof line matching that of the house, with siding also matching that of the house. The sunroom is obviously incomplete, as Applicants were, at that time, given notice that a variance was necessary as they were encroaching upon the required 50 foot rear setback by 10 feet.

The sunroom, says the Applicants, will keep out rain and other adverse weather elements, and will give them year round use of this structure, which they see as an amenity to their home. Mr. Wallen also explained that her husband is handicapped, and a year round sunroom would provide a better living space for him than one which is open to the elements, and it also will give their grandchildren an additional place to play.

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Ms. Wallen believes the subject property to be unique. She and her husband are the original owners and built the house on the property. The house was, at that time, set back farther than was necessary from Hess Road. The house is, in fact, much farther off Hess Road than are other homes in the area. While the minimum front yard building setback is 40 feet, the dwelling is set back approximately 85 feet from the front property line. The Co-Applicant explained that if the house had been set even 10 feet closer to the front yard setback, the requested variance would not be necessary.

Next testified Anthony McClune of the Harford County Department of Planning and Zoning. Mr. McClune believes the property to be unique. The dwelling is located 85 feet behind the front yard setback line, and is basically in the back yard of the lot, with the back wall of the house virtually against the rear yard setback line. The sunroom addition will be at least 100 feet from any adjoining dwelling. There will be adequate separation between the sunroom and other residential structures in the area. The Department also finds that;

“Most of the other dwellings along Hess Road are located closer to the 40 foot minimum building setback line. The property is nicely landscaped with mature trees and shrubbery and all improvements appear to be well maintained.”

The Department of Planning and Zoning accordingly recommends approval.

No testimony or evidence was given 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:

The Applicants reside in an attractive, bi-level residence on Hess Road. In order to be somewhat removed from the traffic noise of Hess Road, the Applicants originally had the home built almost 85 feet off Hess Road, which is far behind the front setback line. The requirement is 40 feet.

Desiring additional living space, the Applicants began to enclose the roofed deck area so as to create a fully enclosed living area. To their surprise, they discovered that while the roofed deck was allowable, conversion to a sunroom now results in a 10 foot encroachment to the required 50 foot rear yard setback.

According to the Staff Report and testimony of Anthony McClune, the proposed sunroom is located at least 100 feet from any adjacent dwelling. Most of the other dwellings along Hess Road are located closer to the 40 foot minimum building setback line and, therefore, are not impacted by the proposed sunroom. The properties to the rear of the subject property are oriented toward Suffolk Lane.

The Staff Report further notes that the subject property is nicely landscaped, and that if the variance is granted no additional landscaping is suggested. Furthermore, photographs in the file of the partially completed sunroom show a very attractive structure, similar in design and finish to the existing home.

The Applicants have a unique situation. Their house is located more than twice as far from Hess Road as is necessary. If not so located, if the house had been built even slightly closer to Hess Road, the requested variance would not be necessary.

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It is, accordingly, found that the Applicants suffer a practical difficulty due to a unique feature of their property. Their difficulty is the inability to construct a sunroom similar in design and character to other additions in the neighborhood and throughout Harford County. The relief requested, i.e., a 10 foot impact to the required 50 foot rear yard setback, is the minimum relief necessary to alleviate the hardship.

There will be no adverse impact on any adjoining neighbor or property.

CONCLUSION:

Accordingly, it is recommended that the requested variance be granted, subject to the Applicants obtaining all necessary permits and inspections for the conversion of the porch.

Date: February 11, 2008

ROBERT F. KAHOE, JR.
Zoning Hearing Examiner

Any appeal of this decision must be received by 5:00 p.m. on MARCH 11, 2008.