

APPLICANTS:
Gene & Betty Harrigan

REQUEST: Variance to permit an addition within the required rear yard setback in the R3/COS District

HEARING DATE: August 13, 2008

**BEFORE THE
ZONING HEARING EXAMINER
HARFORD COUNTY
BOARD OF APPEALS
Case No. 5666**

ZONING HEARING EXAMINER'S DECISION

APPLICANTS: Gene & Betty Harrigan

LOCATION: 311 Hunter Chase Court, Bel Air
Tax Map: 56 / Grid: 2E / Parcel: 451 / Lot: 329
First (1st) Election District

ZONING: R3 /COS - Urban Residential /Conventional with Open Space

REQUEST: Variance, pursuant to Section 267-36B, Table VI, of the Harford County Code, to permit an addition within the required 30 foot rear yard setback (20 foot setback proposed), in the R3/COS–Urban Residential District/Conventional with Open Space.

TESTIMONY AND EVIDENCE OF RECORD:

Betty Harrigan, Co-Applicant, described the subject parcel as a .299 acre improved lot (incorrectly referred to in the file as a .229 acre parcel), located in the Hunters Run subdivision. Mr. and Mrs. Harrigan purchased their property approximately 13 years ago and have resided there since.

The parcel is improved by an attractive, two-story Georgian-type colonial, with an attached two-car garage to one side of the house. The parcel is also improved by a split-rail fence, a concrete driveway, and a deck to the rear of the dwelling.

Mrs. Harrigan and her husband now wish to construct a 12 foot by 14 foot addition to the side of the home, opposite the side which is improved by the two-car garage. The addition will be similar in size to the garage. Mrs. Harrigan indicated that the addition will “very closely match” the existing improvements, which are of brick and frame construction.

Mrs. Harrigan and her husband wish to have the addition in order to provide more living space. Mr. Harrigan suffers from a disability and additional first floor living space would be helpful to him.

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The proposed location of the addition is, according to Mrs. Harrigan, the most logical place for it. The back of the home, as indicated above, is improved by a deck and also has a series of windows across it. An addition in that area would require significantly more changes to the existing structure and topography than would an addition at the location requested.

According to Mrs. Harrigan, the neighbors are aware of the requested variance and no neighbor expressed any objection. Furthermore, Mrs. Harrigan also notes that the Hunters Run Community Association has approved the requested addition. Mrs. Harrigan feels that the improvements will not impact any individual or property and that the addition will, in fact, be an improvement to the neighborhood.

Next for the Applicant testified Richard Kaline, who identified himself as an employee/officer of Cutting Edge Construction Services, Inc., which has been retained to construct the addition. Mr. Kaline stated that the addition is well planned and will be built with materials which match in type and appearance that of the existing dwelling. The improvement will not appear as an addition, but rather as though it was built with the original home. The addition will, in Mr. Kaline's opinion, be somewhat smaller than other similar improvements in the neighborhood and will not, therefore, be out of keeping with the neighborhood.

Mr. Kaline also confirmed that it would be difficult to locate the addition to the rear of the house because of existing improvements.

Next for the Department of Planning and Zoning testified Dennis Sigler. Mr. Sigler explained that the lot on which the Harrigan home is located is an unusual parcel. It is a corner lot with road frontage on both Hunters Chase Court and Shetland Way. Furthermore, the house is located on an angle to the corner formed by the intersection of the two roads. Because the home is located at such an angle to the roadways, the existing buildable area in the rear and side yards is unusually shallow. The required front yard setback off Hunters Chase Court and Shetland Way is 25 feet. Typically, a rear yard in this district would require a 10 foot setback only, whereas a side yard has a required setback of 30 feet.

Somewhat arbitrarily, Mr. Sigler admits the lot line which is perpendicular to Shetland Way was originally designated as the rear lot line instead of the lot line which is perpendicular to Hunters Chase Court. The Hunters Chase Court lot line requires a 10 foot setback; the Shetland Way lot line requires a 30 foot setback. Of course, it is the Shetland Way setback that the Applicants propose to impact by the construction of the addition, requiring a variance of 10 feet.

Mr. Sigler believes that the scenario is a somewhat unusual one, and that if the house had been positioned at a different angle to either of the adjoining roads the required variance would not be necessary.

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Mr. Sigler and the Department believe this to be an unusual situation and the Department recommends approval of the variance, without conditions.

Next testified Phillip Burke, who lives directly across Hunters Chase Court from the subject property, and who also has a corner lot. Mr. Burke expressed no opposition to the request.

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.*
- 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 live in an attractive, two-story brick and frame colonial with an attached two-car garage in the Hunters Run subdivision. Hunters Run is a subdivision of similar, well constructed single-family homes.

The Applicants wish to improve their home by constructing an addition, similar in size to their attached garage, and located on the opposite end of the home. The proposed one-story addition itself is not particularly large and is to have a footprint of approximately 12 feet by 14 feet. The testimony of the Applicants' builder is that the addition will be similar in size, perhaps somewhat smaller, than other like improvements in the area.

It is clear that the addition will be a nice improvement to the Applicants' property, will be attractive, and will be well suited to the Hunters Run neighborhood. However, the Applicants have a somewhat unusual lot configuration in that they are located on a corner, with two front yards with the home itself set at a very acute angle to those two road frontages. The existing home is, accordingly, fairly close to the lot line which has been designated as the property's rear yard lot line (which could, in fact, be a side yard lot line), and comes close to the lot line which is designated as a side yard lot line. Available building space is further constrained by a deck, rear windows and a basement entrance located to the rear of the home.

In truth, the most appropriate location for this addition is as proposed by the Applicants, which is on the end of the home, extending toward the lot line which has been designated by Planning and Zoning as a rear lot line.

Furthermore, the construction of such an improvement behind the existing dwelling, in what would be either a portion of the side yard or rear yard (again, subject to interpretation), would be difficult due to the existing improvements. While not a prime consideration in this case, clearly the construction of an addition in that space would not be as aesthetically pleasing as one at the location proposed.

Accordingly, it is found that the Applicants suffer a difficulty in complying with the setback requirements of the Harford County Development Regulations due to the unusual features of their lot and the location of their home on that lot. The difficulty can be alleviated by the granting of the relatively modest variance requested (a 10 foot impact into a 30 foot rear yard back). Such a variance will have no adverse impact on any adjoining neighbor or property.

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CONCLUSION:

Accordingly, it is recommended that the requested variance be granted, subject to the following conditions:

1. The Applicants obtain all necessary permits and approvals.
2. The addition be constructed with a similar design, colors, and materials to that of the existing dwelling.

Date: September 9, 2008

ROBERT F. KAHOE, JR.
Zoning Hearing Examiner

Any appeal of this decision must be received by 5:00 p.m. on OCTOBER 7, 2008.