BOARD OF APPEALS CASE NO. 4971	*	BEFORE THE
APPLICANTS: Gary & Sherry Rowe	*	ZONING HEARING EXAMINER
REQUEST: Variance to construct an addition within the required setbacks and easement; 924 Country Club Road, Havre de Grace	*	OF HARFORD COUNTY
	*	Hearing Advertised
	*	Aegis: 9/22/99 & 9/29/99
HEARING DATE: November 10, 1999		Record: 9/24/99 & 10/1/99
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ZONING HEARING EXAMINER'S DECISION

The Applicants, Gary and Sherry Rowe, appeared before the Hearing Examiner requesting a variance to Section 267-26(C)(6) of the Harford County Code, to allow an addition within the recorded easement and a variance to Section 267-36(B), Table IV, to permit an addition within the required 15 foot side yard setback in an R1 District.

The subject parcel is located at 924 Country Club Road in the Second Election District. The parcel is identified as Parcel No. 164, in Grid 2-E, on Tax Map 59. The parcel contains .618 acres, more or less, all of which is zoned R1.

Mr. Gary Rowe appeared and testified that the parcel is improved by a single-family dwelling, a 10 foot by 16 foot shed, and an 8 foot by 10 foot play house. The Applicant said that he is requesting a variance to construct a one-story addition with dimensions of 18 feet by 26 feet. The Applicant said that if the variance is approved, he will maintain an average 11.6 foot side yard setback. The Applicant said that one corner of the addition would be in the easement and that the portionof the addition within the easement would be approximately 10 square feet. The Applicant said the subject parcel is unique because the location of the septic system and his well, as well as the topographic conditions in the area proposed for the addition are unique. He said he did not feel the variance would be substantially detrimental to adjacent properties or materially impair the purpose of the Code. The Applicant indicated that the Department of Public Works has inspected the easement and indicated that approval of the variance will not adversely affect the drainage pattern on the parcel.

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The Applicant also testified he did not feel approval of the variance would be substantially detrimental to adjacent properties or materially impair the purpose of the Code because none of his neighbors appeared in opposition to the request.

The Staff Report of the Department of Planning and Zoning recommends conditional approval and provides:

> "Based on the physical constraints and natural features of the lot, and the land uses on adjoining properties, the proposed placement of the addition appears to be the most practical location. Furthermore, the reduced setbacks should have little or no adverse impact. The required side yard setback for the R1 District is 15 feet, with a total of 35 feet. With the proposed addition, the addition will be 19 feet from the front side and 4 feet from the rear side, with an average of 11.6 feet."

CONCLUSION:

The Applicant is requesting a variance to Section 267-26(C)(6) of the Harford County Code, to allow an addition within a recorded easement and a variance to Section 267-36(B), Table IV, which requires a 15 foot side yard setback.

Section 267-26(C)(6) provides:

> "No accessory use or structure, except fences, shall be located within any recorded easement area."

The uncontradicted testimony of the Applicant is that the subject parcel is unique due to topographic conditions on the parcel and the location of the well and septic area on the parcel. No evidence was introduced that the variance will be substantially detrimental to adjacent properties or materially impair the purpose of the Code. The Staff Report also indicates that the Department of Public Works and the Environmental Section of the Department of Planning and Zoning have reviewed the Applicant's request and neither have found that approval of the variance will have an adverse impact.

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It is the finding of the Hearing Examiner that the subject parcel is unique for the reasons stated by the Applicant in his testimony and, further, that approval of the variance will not be substantially detrimental to adjacent properties or materially impair the purpose of the Code.

Therefore, it is the recommendation of the Hearing Examiner that the requested variances be approved, subject to the condition that the Applicants obtain all necessary permits and inspection for the addition.

Date NOVEMBER 30, 1999

L. A. Hinderhofer
Zoning Hearing Examiner