APPLICANT:
Larry Day

REQUEST:
Variance to allow two lots on a panhandle in an R1 District

HEARING DATE: January 14, 2004

BEFORE THE

ZONING HEARING EXAMINER

FOR HARFORD COUNTY

BOARD OF APPEALS
Case No. 5386

ZONING HEARING EXAMINER'S DECISION

APPLICANT: Larry Day

LOCATION: 1113 Hanson Road, Edgewood, Maryland
Tax Map: 65 / Grid: 3D / Parcel: 933, 365, 733 / Lot: 1
First Election District

ZONING: R1 / Urban Residential

REQUEST: Variance pursuant to Section 267-22G(1) of the Harford County Code, to allow two lots on a panhandle

TESTIMONY AND EVIDENCE OF RECORD:

First for the Applicant testified Kevin Small of Frederick Ward Associates, Inc. Frederick Ward Associates, Inc. was employed by the Applicant to prepare the site plan and to assist in this application for variance. Mr. Small identified the parcels involved in this application as Parcels 365, 733, and 933, all as shown on Applicant's site plan entitled "Plan to Accompany Variance Application". According to Mr. Small, existing Parcel 365 is to be subdivided with the newly created lot to be located behind an existing residence. Access through that part of newly subdivided Parcel 365 which adjoins Hanson Road (referred to as Lot 1 on Applicant's site plan), would be difficult, if not impossible, due to the narrowness of the lot and the location of the existing residence thereon. A review of the site plan indicates that the existing residence on proposed Lot 1 will be approximately 15 feet off its property line. Mr. Small was of the opinion that, as a result, it would be difficult, and highly impracticable, to attempt to locate an access lane to proposed Lot 2 on either side of the existing residence.

Accordingly, the Applicant is proposing the creation of a new panhandle to be subdivided from Parcel 733. Additionally, a panhandle would be created for Parcel 933, which is otherwise a landlocked parcel. The result would be the creation of two panhandles, one to service existing lot 933, and one to service proposed Lot 2 out of Parcel 365, with both panhandles to be located to the east side of Parcel 733.

Mr. Small testified that this would be a beneficial result, as the owners of Parcels 733, Lot 2 and Lot 1, would also join in, by way of a common drive agreement, the use of the common drive which would be created out of the new panhandles. Accordingly, there would be one entrance onto Hanson Road servicing four lots.

The Applicant, Larry Day, then testified that Parcel 733, Lot 2 is owned by his niece, and Lot 1 of Parcel 733 were owned by other relatives who have in fact joined in the application. Mr. Day testified that he did not believe there would be any adverse impact to the neighborhood, or any harm resulting from the creation of the panhandles as requested. He believes it would, in fact, serve to create a better driveway situation onto Hanson Road than now exists.

Next testified Anthony McClune for the Harford County Department of Planning and Zoning. Mr. McClune stated that the configuration of properties involved is unique. While a subdivision of Parcel 365 is otherwise allowed, the only way it can obtain necessary road frontage, because of its configuration, is by the creation of a panhandle lot. Furthermore, Parcel 933 has no road frontage and is considered landlocked. This is a unique situation, which can be resolved by the creation of two new panhandle lots. The resulting common drive would also be shared by the owners of the adjoining lots, Parcel 733, Lot 2, and Parcel 733, Lot 1.

The Department recommends that the variance be granted in order to alleviate this hardship on the Applicant caused by the unique characteristics of the properties involved.

No witnesses appeared in opposition.

APPLICABLE LAW:

The Applicants are requesting an area variance to the requirements of § 267-22G(1) which states:

> *"Except in Agricultural and Rural Residential Districts, with regard to any parcel, as it existed on September 1, 1982, not more than one (1) lot or five percent (5%) of the lots intended for detached dwellings, whichever is greater, and not more than ten percent (10%) of the lots intended for attached dwellings may be panhandle lots."*

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:*

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(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 properties involved in this variance request are unique. While a subdivision of Parcel 365 is allowed by subdivision regulations, given its unique configuration, i.e., narrow and deep, the parcel to be created from its rear would have a very narrow, and in fact impractical, access to Hanson Road through the front part of the parcel, which would be proposed Lot 1.

The Applicants' only alternative is to create a panhandle across Parcel 733, Lot 1. Parcel 933, to its rear, is landlocked and also requires access. This access could be provided by an additional panhandle. The two panhandles together would total 25' in width and would be subject to a common drive agreement which would serve to minimize the number of road entrances onto Hanson Road. The panhandle lane would also be utilized by the owners of Lot 2 and Lot 1, Parcel 733. This would also eliminate another entrance onto Hanson Road, which would be beneficial to users of Hanson Road, the roadway, and generally to the neighborhood.

Because of the unique characteristics of the lots, the Applicants suffer a practical hardship which can only be alleviated by the granting of the variances requested. There would be no adverse impact or harm to the neighborhood and, in fact, as stated above, the neighborhood shall benefit. The request, if granted, also fully meets the considerations of Section 267-9I.

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CONCLUSION:

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

1. The Applicants shall submit a preliminary plan to Harford County for review and approval.

2. That a final plat be submitted to Harford County for approval and recordation at the Land Records of Harford County.

3. Lots 1 and 2 of Parcel 733, Parcel 933, and proposed Lot 2 of Parcel 365 shall share a common driveway.

4. A common drive agreement must be submitted with the final plat for these lots. The owner of Lot 2, Parcel 733, is not an applicant in this case. A condition of approval is that she, he, or they join in the execution of the common drive agreement.

5. The common drive agreement shall be submitted to Harford County Department of Planning and Zoning and Department of Law for review and approval prior to execution by the parties.

Date: February 11, 2004

ROBERT F. KAHOE, JR.
Zoning Hearing Examiner