
IN THE MATTER OF THE
PETITION OF: YD BUILDERS

Baltimore City Board of Municipal
& Zoning Appeals

**3102 Foster Ave
(BLOCK 1844, LOT 013)**



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Appeal No. **2024-256**
Hearing Date: **January 21, 2025**

RESOLUTION

Background

This matter comes before the Baltimore City Board of Municipal & Zoning Appeals (“Board”) on appeal from the Zoning Administrator for Baltimore City denying the application of YD Builders (“Appellant”) to construct a two-story rear addition atop detached garage, requiring variance approval, at 3102 Foster Ave (“Property”).

Appellant filed this appeal to the Board on November 5, 2024 and appeared for a public hearing on January 21, 2025. Board staff prepared a memorandum evaluating the appeal. Following deliberations and for the reasons set forth below, the Board voted to approve Appellant’s request to construct a two-story rear addition atop detached garage, requiring variance approval, by a 4-0 vote.

Board members James Fields, Victor Clark, Leland Shelton, and Liz Cornish participated in the hearing and deliberation. Chair James Fields presided. Notice of the public hearing was given in accordance with Title 5, Subtitle 6 {“Notices”} of the Zoning Code. The hearing was conducted in accordance with the Board’s Rules of Procedure, the Zoning Code, the Baltimore City Charter, and the Maryland Land Use Article.

Facts

Art. 32, Table 9-401 specifies a minimum rear yard setback of 25 feet for “all other uses” in an R-8 district. The proposed garage addition is set back 5 feet from the rear lot line, requiring a variance of 20 feet.

Art. 32, Table 9-401 also mandates a minimum interior side yard of 10 feet for “all other uses” in an R-8 district. The proposal requires a full variance of 10 feet for each side lot line.

According to Art. 32 section 15-501(b), the total area of all accessory structures must not exceed 50% of the required rear yard. The proposed garage covers approximately 80% of the required rear yard, necessitating a variance of 30%.

Art. 32, Section 15-501(c) sets a maximum height of 15 feet for all accessory structures. The proposed three-story detached garage, with a height of 29 feet, 8 inches above grade, exceeds this limit by 14 feet, 8 inches, requiring a variance.

The Property is a rectangular interior lot measuring 12 feet wide by 138 feet deep, with a total land area of approximately 1,656 square feet. It is developed with a two-story brick/frame attached dwelling built around 1890, offering 1,152 square feet of above-grade floor area, along with a one-story detached garage in the rear yard.

Appellant proposes to construct a two-story garage addition, which will have 1,074 square feet of floor area and a total footprint of 12 feet by 50 feet, 6 inches in the rear yard. Additionally,

a 138-square-foot third-floor rear deck is proposed. Due to the addition's bulk and height, variances are needed for height, minimum rear yard area, and interior side/rear setbacks. The second story will serve as a home office, while the third story will house a recording studio and sauna.

The Department of Planning, in its memorandum, concluded that it has no objection to this appeal only if the structure is not used as a dwelling unit.

Support: Appellant seeks variances to construct a two-story rear addition on top of an attached garage at a rowhouse lot on Foster Avenue. The requested variances include a 20-foot rear yard setback variance (25 feet required, 5 feet proposed), interior side yard setback variances (10 feet required on each side, 0 feet proposed), an accessory structure rear yard coverage variance (50% allowed, 80% proposed), and an accessory structure height variance (15 feet allowed, 29 feet 8 inches proposed).

Appellant emphasized that the project complies with the Planning Department's design guidelines for maintaining a consistent block appearance. The lot is uniquely long at 138 feet and directly abuts commercial structures, a condition not present elsewhere in the block. Due to the physical constraints of the lot, the requested variances are necessary. The project would bring the garage further into compliance by increasing the rear setback from 3 feet to 5 feet. The homeowner intends to use the addition as a home office and gym. This aligns with home occupation use regulations in the Code.

Community engagement efforts included a meeting with the Canton Community Association, which responded positively but did not have sufficient time to submit a formal letter of support. The Owner also consulted with adjacent neighbors, who were supportive of the project.

In justifying the variance request, Appellant argued that the unique lot shape and its proximity to commercial structures create practical difficulties in meeting setback requirements, particularly on a 12-foot-wide lot. The proposed addition maintains neighborhood character and aligns with the city's Comprehensive Master Plan. Appellant asserted that the variance would not negatively impact neighboring properties, property values, or public welfare. Instead, the project aims to allow the owner to live and work in Baltimore while preserving the integrity of the surrounding residential area.

Opposition: There was no opposition to this appeal.

Standard of Review

Under § 5-305(a), the Board must evaluate a variance request based on the evidence presented at a public hearing, as outlined in § 5-308. According to § 5-308(a), the Board may grant a variance only if it finds that, due to the specific physical surroundings, shape, or topographical conditions of the structure or land in question, a practical difficulty — as opposed to a mere inconvenience — would result if the strict letter of the applicable requirement were enforced.

To grant a variance under § 5-308(b), the Board must find the following:

1. The conditions supporting the application are unique to the property in question and do not generally apply to other properties within the same zoning classification.
2. The unnecessary hardship or practical difficulty is caused by this article and was not created by the intentional action or inaction of any person with a present interest in the property.
3. The purpose of the variance is not solely to increase the property's value or income potential.

4. The variance will not:
 - (i) harm the use and enjoyment of other properties in the immediate vicinity; or
 - (ii) substantially diminish or impair property values in the neighborhood.
5. The variance aligns with the purpose and intent of this Code.
6. The variance is not prohibited by and will not adversely affect:
 - (i) any Urban Renewal Plan;
 - (ii) the City's Comprehensive Master Plan; or
 - (iii) any Historical and Architectural Preservation District.
7. The variance will not:
 - (i) endanger or harm public health, safety, or welfare; or
 - (ii) otherwise be contrary to the public interest.

Under § 5-306(a), before approving a variance, the Board may impose conditions, restrictions, or limitations on the establishment, location, construction, maintenance, or operation of the variance. These measures may be considered necessary or desirable to:

1. Reduce or minimize the variance's impact on neighboring properties;
2. Ensure compliance with the standards and requirements of this Code; and
3. Better fulfill the intent and purpose of this subtitle.

Discussion

After a thorough review of the file, evidence and testimony submitted in support of this application, the Board evaluated this application under the variance approval standards found in City Code Art. 32 and Maryland law.

The Board found that Appellant met the requirements for variance approval as set forth in § 5-308 of the Code. Specifically, the Board determined that the unique characteristics of the Property, including its narrow width of 12 feet and its direct adjacency to commercial structures, created a practical difficulty in complying with the setback and height requirements. These conditions were unique to the Property and did not generally apply to other properties in the zoning district. The Board further found that the need for variances was not created by any intentional action or inaction of Appellant, but rather by the inherent constraints of the lot's size and configuration.

The Board concluded that the requested variances were not sought solely to increase the Property's value or income potential but were necessary to allow for a functional home office and gym space that aligned with home occupation regulations. The Board also found that the proposed addition would not harm the use and enjoyment of neighboring properties or substantially diminish property values in the neighborhood. Instead, the project was designed to maintain the architectural character of the block and was consistent with the City's Comprehensive Master Plan.

The Board determined that the variance request was not prohibited by and would not adversely affect any Urban Renewal Plan, the City's Comprehensive Master Plan, or any Historical and Architectural Preservation District. Additionally, the Board found that the proposed structure would not endanger public health, safety, or welfare and was not contrary to the public interest. The Department of Planning expressed no objections to the application, provided that the addition was not used as a separate dwelling unit, a condition that Appellant agreed to comply with.

Based on these findings, the Board concluded that the variance request satisfied the requirements of the Zoning Code. In approving the application, the Board imposed the condition

that the addition shall not be used as a separate dwelling unit, ensuring compliance with zoning regulations and the stated intent of the project. Consequently, the Board voted 4-0 in favor of granting the requested variances, allowing Appellant to proceed with the proposed construction.

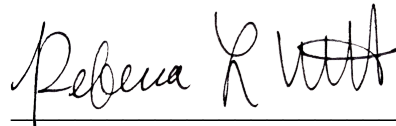
Conclusion

For the reasons set forth above, and after giving public notice, reviewing the zoning records, holding a public hearing, considering all data submitted, and by authority of City Code Art. 32, it is this **7th day of March, 2025**, by the Baltimore City Board of Municipal and Zoning Appeals, hereby:

RESOLVED, that the Board finds sufficient evidence in the record to support the application of Appellant to construct a two-story rear addition atop detached garage, requiring variance approval; and it is further,

RESOLVED, that Appeal No. 2024-256 is **GRANTED**.

DO NOT START WORK OR USE THE PROPERTY UNTIL YOU OBTAIN A BUILDING OR A USE & OCCUPANCY PERMIT FROM THE DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT. YOU HAVE ONE YEAR FROM THE DATE OF THIS RESOLUTION TO OBTAIN A BUILDING PERMIT OR A USE & OCCUPANCY PERMIT.



Rebecca Witt
Executive Director

