

Resolution No. R-07-2022

Adopted: March 14, 2022

A Resolution of the Mayor and Town Council of Kensington Approving a Variance to encroach one foot, six inches (1' 6") into the required twenty-foot (20') sum of the side yard setback for a dwelling on land zoned for single-family use at 3906 Washington Street.

WHEREAS, an application for a two-story and basement addition has been filed by Joseph Akman and Jessica Veffer, ("Applicants"), for certain real property located at 3906 Washington Street ("the Property"); and

WHEREAS, the Variance would allow for a two-story addition and basement to replace an existing one-story addition on the west side of the property by encroaching one-foot, six-inches (1'-6") into the required twenty-foot (20') sum of the side yard setback, as regulated within Section 5-104, "Building Lines", of the Code; and

WHEREAS, the Town Council may grant a petition for a Variance after a hearing when the Council finds that:

1. There are specific situations or conditions that are peculiar to the property that makes it unique from neighboring properties, including, but not limited to: (i) shape (narrowness/shalowness); (ii) topography; (iii) historic significance; (iv) environmental features; or (v) other extraordinary conditions unique to that property. The conditions must result from the application of building or zoning standards and not from the action, inaction or the personal circumstances of the property owner or the owner's predecessor(s); and
2. The requested variance is the minimum necessary to overcome the unique condition of the property; and
3. The requested variance is not detrimental to neighboring properties or the community as a whole.

WHEREAS, the Mayor and Council conducted a Public Hearing on the Variance request at the February 14, 2022, Council meeting, after due notice to the public and to the adjacent neighbors, and received testimony on the requested Variance. The Council closed the record following the Public Hearing.

NOW, THEREFORE, BE IT RESOLVED that the Council of the Town of Kensington, based on the testimony presented at the Public Hearing on February 14, 2022, and evidence submitted, adopts the following findings of fact and conclusions of law:

Findings of Fact:

1. Joseph Akman and Jessica Veffer (“Applicants”), are the owners of 3906 Washington Street in Kensington, Maryland, which is zoned single family residential (“Property”).
2. The original dwelling dates to at least 1908.
3. The Town’s requirement for 10-foot side yard setbacks, which exceeds the County’s was adopted well after the main dwelling was constructed.
4. The main dwelling has a side yard setback on the west side of the property of 4’-10”.
5. The current rear one-story addition has a side yard setback on the west side of the property of 5’-6”, in which the Applicants plan to keep the existing building line with the proposed new two-story addition and basement.
6. The Town has an exception when the footprint of the proposed addition is equal to or less than 650 square feet, that one side of the addition is permitted to conform no less than the existing dwelling setback on that side, or seven (7’) feet, whichever is greater. However, the sum of the side yards must total at least twenty (20’) feet and maintain at least fifteen (15’) feet to any other building.
7. The immediate lot to the west of 3906 Washington Street is a vacant lot.
8. The sum of the side yards, with the Variance, would total twenty (21’) feet.
9. The existing one-story addition was previously granted a Variance by the Montgomery County Board of Appeals.
10. The proposed two-story and basement addition will require a variance from the Montgomery County Board of Appeals.
11. The Applicants are requesting a Variance of 1’6” Variance into the seven (7’) foot setback, per the Town’s exception within Section 5-104(b) of the Town Code.

Conclusions of Law:

1. Strict application of Town regulations would result in undue hardship due to the historic significance of the property and the Council’s determination that the proposed below-grade addition would preserve the existing greenspace and setback requirement at grade.
2. The proposed Variance is the minimum necessary to overcome the unique condition of the Property to allow for the Applicant to maximize the garage.
3. The Variance can be granted without impairment of the intent, purpose, and integrity of this article.

BE IT FURTHER RESOLVED THAT the Variance request to encroach one foot, six inches (1’ 6”) into the required twenty-foot (20’) sum of the side yard setback at the Property located at 3906 Washington Street be and it is hereby granted.

ADOPTED by the Town Council of Kensington, Maryland at the regular public meeting assembled on the 14th day of March, 2022.

EFFECTIVE the 14th day of March, 2022.

ATTEST: TOWN OF KENSINGTON, MARYLAND

By: 
Susan C. Engels, Clerk – Treasurer


Tracey C. Furman, Mayor