

IN RE: <b>PETITION FOR VARIANCE</b>	*	BEFORE THE
E/S Poplar Road, 415' S of		
Poplar Road	*	ZONING COMMISSIONER
<b>(2330 Poplar Road)</b>		
15 <sup>th</sup> Election District	*	OF
6 <sup>th</sup> Council District		
	*	BALTIMORE COUNTY
James A. Pine, Jr., et ux		
Petitioners	*	<b>Case No. 2009-0103-A</b>

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**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

This matter comes before the Zoning Commissioner for consideration of a Petition for Variance filed by the owners of the subject property, James A. Pine, Jr., and his wife, Kathleen A. Pine. The Petitioners request Variance relief from Sections 1A04.3B3 and 400.3 of the Baltimore County Zoning Regulations (B.C.Z.R.) to allow a building coverage of 21.1% and an accessory building (garage) with a height of 20 feet in lieu of the permitted 15% and 15 feet respectively. The subject property and requested relief are more particularly described on the amended site plan submitted which was accepted into evidence and marked as Petitioners' Exhibit 1. Appearing at the requisite public hearing in support of the request were James and Kathleen Pine<sup>1</sup>, legal owners, a neighbor, Mark W. Dickerson, and David Billingsley, of Central Drafting and Design, Inc., who is assisting the Petitioners in the process. There were no Protestants or other interested persons present; however, letters of support were received from residents on Poplar Road (*See* Petitioners' Exhibit 5).

Testimony and evidence offered disclosed that the subject property is a rectangular shaped waterfront parcel (51' x 281') located on the southeast side of Poplar Road with frontage on Sue Creek in the community of Cedar Beach. The property contains a gross area of 0.32

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<sup>1</sup> Mr. Pine participated by way of telephone conference.

acres (13,930 square feet), more or less, zoned R.C.5, and is improved with a single-family dwelling dating back to 1924, a pier and a 40' x 18' garage surrounded by macadam paving. The Petitioners have owned the property, identified as part of Lots 113 and 114 of Cedar Beach, for the past six (6) years. In 2006, they purchased a new 45' Tiffin Zephyr Motorhome Coach and have stored it in the rear side yard adjacent to their garage. Mr. Pine testified that the vehicle is frequently used for recreational purposes and that it has been stored outside exposed to the elements since its purchase. The Petitioners now come before me seeking approval to enlarge their existing garage. As shown on the site plan, a proposed 20' x 20' addition will be added to the eastern end of the present garage (house side) over existing macadam providing parking for automobiles. The expansion of the existing garage will consist of raising the pitched roof by 5 feet to provide for a larger garage door permitting the motorhome to be backed in. The improvements will allow for a break or offset and window treatments providing for a residential appearance to better match the pattern of development in the locale. This will allow the Pines to store the recreational vehicle out of view from adjacent neighbors and passing motorists traveling on Poplar Road. B.C.Z.R. Section 415A.1A provides in pertinent part a preference that such a vehicle be stored in a garage.

After due consideration of all of the testimony and evidence presented, I am persuaded to grant the requested relief. Testimony and evidence offered in support of the request was that without variance relief, the garage improvements could not be made. At present, "building coverage" on the lot is 18.5%. The 20' x 20' new addition will increase "building coverage" to 21.1%, however, there will be no increase in impervious surface area as the garage will be placed over macadam pavement. Obviously, strict compliance with the regulations would result in a practical difficulty and unreasonable hardship for the Petitioners. As noted above, the vehicle has existed on the property where located for the past two years without prior

complaint. In my view, the relief requested will not result in any detriment to the health, safety and general welfare of the surrounding locale and meets the spirit and intent of Section 307 for relief to be granted. Indeed, Mr. Dickerson testified that having the motorhome coach housed inside an enclosed garage would be a benefit. There were no adverse comments submitted by any County reviewing agency and the neighbors support the proposal. However, the proposed improvements must comply with the Chesapeake Bay Critical Area regulations as set forth in the attached Zoning Advisory Committee (ZAC) comment submitted by the Department of Environmental Protection and Resource Management (DEPRM) dated November 19, 2008. Finally, in order to safeguard the community, should the Petitioners discontinue the use of the accessory structure for recreational vehicle storage or sell the property to subsequent owners, I will further condition approval to prevent the structure's use for living quarters or commercial purposes.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons set forth herein, the relief requested shall be granted.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 21<sup>st</sup> day of November 2008 that the Petition for Variance seeking relief from Sections 1A04.3B3 and 400.3 of the Baltimore County Zoning Regulations (B.C.Z.R.) to allow a building coverage of 21.1% and an accessory building (garage) with a height of 20 feet in lieu of the permitted 15% and 15 feet respectively, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject to the following restrictions:

- 1) The Petitioners may apply for their building permits and be granted same upon receipt of this Order; however, the Petitioners are hereby made aware that proceeding at this time is at their own risk until the 30-day appeal period from the date of this Order has expired. If an appeal is filed and this Order is reversed, the relief granted herein shall be rescinded.

- 2) Compliance with the Zoning Advisory Committee (ZAC) comment submitted by DEPRM relative to the Limited Development Area (LDA) and Buffer Management Area (BMA) in the Chesapeake Bay Critical Area (CBCA) in accordance with this comment, dated November 19, 2008 has been attached hereto and are made a part hereof.
- 3) The Petitioners or their subsequent owners shall not convert the subject accessory structure into a dwelling unit or apartment. The structure shall not contain any sleeping quarters, living area, kitchen or bathroom facilities nor shall it be used for commercial purposes.
- 4) When applying for any permits, the site plan filed must reference this case and set forth and address the restrictions of this Order.

Any appeal of this decision must be taken in accordance with Section 32-3-401 of the Baltimore County Code.

WJW:dlw

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SIGNED  
WILLIAM J. WISEMAN, III  
Zoning Commissioner  
for Baltimore County