

IN RE: PETITION FOR SPECIAL HEARING	*	BEFORE THE
W side of Grace Avenue; 724 feet S		
of the c/l of Virginia Avenue	*	DEPUTY ZONING
13 th Election District		
1 st Councilmanic District	*	COMMISSIONER
(4420 Walnut Avenue)		
	*	FOR BALTIMORE COUNTY
Mary Margaret Grace		
<i>Petitioner</i>	*	CASE NO. 2009-0283-SPH

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Deputy Zoning Commissioner for consideration of a Petition for Special Hearing filed by Mary Margaret Grace, the legal property owner. Special Hearing relief is requested pursuant to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit an addition to an existing accessory structure (garage) with a footprint larger than the principal structure (single-family dwelling). The subject property and requested relief are more fully described on the site plan which was marked and accepted into evidence as Petitioner’s Exhibit 1.

Appearing at the requisite public hearing in support of the requested special hearing were Petitioner Mary Margaret Grace and Michael J. Mirowski, a close friend of Petitioner with knowledge of the proposed addition to the existing garage. There were no Protestants or other interested persons in attendance at the hearing.

Testimony and evidence offered revealed that the subject property is rectangular in shape, contains approximately 0.8 acre, more or less, or 35,750 square feet, zoned D.R.5.5. The subject property, identified as 4420 Walnut Avenue, is situated between the west side of Walnut Road and the east side of Forester Road, about 500 feet east of the Baltimore-Washington Parkway and 500 feet north of the Harbor Tunnel Thruway (Interstate 895), in the Halethorpe area of

Baltimore County. The property, situated in the “English Consul Estates” subdivision, is improved with a single-family dwelling approximately 1,240 square feet in size and an existing garage approximately 1,210 square feet. The proposed addition measures approximately 16 feet by 39 feet and would add 620 square feet, more or less, to the existing garage, creating an enlarged garage containing approximately 1,830 square feet. Hence, Petitioner has requested the instant special hearing relief.

Initially, it should be noted that Section 101.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) defines an accessory use or structure as:

“a use or structure which: (a) is customarily incident and subordinate to and serves a principal use or structure; (b) is subordinate in area, extent or purpose to the principal use or structure.”

In this case, the Petitioner requests that the undersigned determine that despite the fact that the accessory structure (garage) with the proposed addition would no longer be subordinate in area to the principal structure, that it nonetheless is still an accessory structure.

Petitioner and Mr. Mirowski testified that the subject property was originally part of a large tract of land owned by Petitioner’s grandfather that was later subdivided into three properties: 4419, 4420, and 4422 Walnut Road. The subject property was sold out of the family for a period of time until Petitioner was able to purchase the home out of foreclosure from the previous owner. Petitioner also owns the adjoining lot to the south, 4422 Walnut Road, which is currently rented to Petitioner’s nephew. Although there is an accessible ingress/egress from both Walnut Road and Forester Road, Petitioner testified that about 90% of the time, the Walnut Road access is used. Petitioner also noted that the adjoining property to the north, 4419 Walnut Road, uses Forester Road as an access to their home as well. This unusual ingress/egress can be seen in the aerial GIS map that was marked and accepted into evidence as Petitioner’s Exhibit 3.

Petitioner aims to enlarge the existing garage in order to provide sufficient shelter for several vehicles that she and her male companion own, including a 1966 Chevrolet, a 1950 Ford Tractor, farm equipment, and several three-quarter ton, crew cab, four door pick-up trucks. Petitioner explained that the proposed addition would provide shelter for these aforementioned items in order to reduce weathering and improve the aesthetics of the property, while also providing an area to perform routine maintenance such as oil changes and brakes. Further, Petitioner assured the undersigned that the garage is neither used as a dwelling, residence, or commercial enterprise.

The Zoning Advisory Committee (ZAC) comments were received and are made part of the record of this case. Comments received from the Office of Planning dated May 21, 2009 indicate that in the event Petitioner is able to demonstrate to the Zoning Commissioner that the structure is being used in a manner consistent with the Baltimore County Code and Zoning Regulations, the Planning Office does not oppose the request. Petitioner testified to the current uses of the garage and successfully indicated the ingress/egress for the property. The undersigned is satisfied that the current and future use of the garage complies with the Baltimore County Code and Zoning Regulations as an accessory structure and effectively addresses the concerns of the Office of Planning.

To that end, I am persuaded to grant the special hearing relief. In my view, based on the testimony and evidence presented, despite the proposed addition making the footprint of the garage larger than that of the principal structure, the garage is and will remain as an accessory structure, subordinate to the principal structure. No one resides in the garage nor is any commercial enterprise conducted from the garage. The increase in the garage is only desired in order to continue to shelter and maintain the vehicles Petitioner owns, and to improve the

aesthetics of the property. Thus, the garage serves the principal structure as an accessory use and structure in the spirit and intent of the definition enumerated in Section 101.1 of the B.C.Z.R.

Pursuant to the advertisement, posting of the property, and public hearing on this petition held, and after considering the testimony and evidence offered by Petitioner, I find that Petitioner's request for special hearing should be granted.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County, this 14th day of July, 2009 that Petitioner's request for Special Hearing relief filed pursuant to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit an addition to an existing accessory structure (garage) with a footprint larger than the principal structure (single-family dwelling) be and is hereby GRANTED, subject to the following:

1. Petitioner may apply for permits and be granted same upon receipt of this Order; however, Petitioner is hereby made aware that proceeding at this time is at her own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, Petitioner would be required to return, and be responsible for returning, said property to its original condition.
2. The Petitioner or 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.
3. The accessory structure shall not be used for commercial purposes.

Any appeal of this decision must be made within thirty (30) days of the date of this Order.

SIGNED
THOMAS H. BOSTWICK
Deputy Zoning Commissioner
for Baltimore County

THB:pz