

<b>IN RE: PETITION FOR ADMIN. VARIANCE</b>	*	BEFORE THE
N side of Michaelsford Road, 629 feet		
NE of Katesford Road	*	DEPUTY ZONING
8 <sup>th</sup> Election District		
2 <sup>nd</sup> Councilmanic District	*	COMMISSIONER
(12310 Michaelsford Road)		
	*	FOR BALTIMORE COUNTY
<b>Steven and Julie Burleson</b>		
<i>Petitioners</i>	*	<b>Case No. 2009-0308-A</b>

\* \* \* \* \*

**ORDER ON MOTION FOR RECONSIDERATION**

This matter comes before this Deputy Zoning Commissioner for consideration of a Motion for Reconsideration filed by Petitioner Steven A. Burleson. The Motion for Reconsideration was filed pursuant to Rule 4(k) of Appendix G of the Baltimore County Zoning Regulations (B.C.Z.R.) wherein the Rules of Practice and Procedure Before the Zoning Commissioner/Hearing Officer for Baltimore County are provided. Rule 4(k) permits a party to file a Motion for Reconsideration of an Order issued by the Zoning Commissioner. This Motion must be filed within 30 days of the date the Order was issued, and must state with specificity the grounds and reasons for the request.

In the instant matter, Petitioner requested Administrative Variance relief from Section 1A04.3.B.3 (1979) of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a proposed side yard setback for a garage addition of 24 feet in lieu of the required 50 feet, and to amend the previously approved plan and Order in Case No. 1989-0035-A, and to amend the Final Development Plan for Lot 10, Section 1 of Laurelford. The case garnered interest from the community and a Formal Demand for Hearing was timely filed by a nearby property owner, W. Carl Hossfeld of 12311 Michaelsford Road. A public hearing was convened on Monday, July 13, 2009. In an Order dated July 27, 2009, the undersigned denied the Variance request.

Thereafter, in an email dated August 25, 2009, Petitioner filed the aforementioned Motion for Reconsideration. In his Motion, Petitioner requests that the undersigned reconsider the denial of the variance on several grounds. Petitioner indicates that his property meets the uniqueness standard because it is very long and narrow, compared to many of the other properties that are wide and shallow; he also mentions the fact that current R.C.5 Zoning requires lots to be at least 1.5 acres in size, while his lot is only 1.1 acres, and is thereby unable to meet the current zoning requirements in any event. In addition, Petitioner indicates that the covenants and restrictions of the Laurelford community make no mention of setbacks, leading to Petitioner's conclusion that the original intent of the Developer was to allow his proposed structure, and further indicates that the section which states that garages shall be side loading "where possible" is not a mandate requiring side loading garages in every instance. Finally, Petitioner points out that the Zoning Regulations permit his proposed garage as an "accessory structure" and would allow the construction of a two car *detached* garage in almost the exact same location.<sup>1</sup> (emphasis added).

Following circulation of Petitioner's Motion to individuals that were in attendance at the prior public hearing, a number of residents in the Laurelford community provided their responses to the Motion, which are contained in the case file. These included letters or emails from: Virginia E. Wich, Margaret Counselman, W. Carl Hossfeld, Jr. and Susan S. Hossfeld, Joan Smyth, Nancy Hyland, and Mark Hyland in his capacity as President of the Laurelford Improvement Association, Inc. Without reiterating each and every point made in these responses

---

<sup>1</sup> Petitioner has indicated that the Zoning Regulations would permit the construction of a detached accessory structure in a similar location to what is proposed, with the front entrance moved back approximately 8 feet, a reduced height from 17 feet to 15 feet, and the removal of a breezeway attachment. Even with these subtle differences, Petitioner believes that his original plan with the garage attached to the house is superior to a detached accessory structure and urges the undersigned to grant the variance on that basis as well. While Petitioner may indeed be trying to save the Protestants from -- to use the expression -- "cutting off their nose to spite their face," such issues are not before me in this matter. My task is to decide the discreet legal and factual issues associated with the Petition for Variance and not to be an "arbiter" between neighbors or to offer alternative dispute resolution. If Petitioner can still proceed legally with an accessory structure in much the same location as the proposed addition, then perhaps that is his right.

in their entirety, suffice it to say that these responses are overwhelmingly opposed to the granting of the variance relief. In sum, they believe the 50 foot side yard setback should be strictly enforced so that the proper spacing between the properties can be maintained. They also believe that granting a variance in this case could set a precedent for others to follow in the community.

In considering the Motion for Reconsideration, the undersigned reviewed the file and the Findings of Fact and Conclusions of Law dated July 27, 2009, as well as the evidence that was introduced at the hearing. After reviewing the testimony and evidence, I am not persuaded to disturb my earlier ruling and shall deny the Motion for Reconsideration. It is certainly understandable that Petitioner desires to make what he believes to be necessary improvements to his property. And for the most part, those desires are generally not interfered with. However, in doing so, Petitioner must also realize the limitations to his property, both as to the legal restrictions placed by the applicable Zoning Regulations, and the practical restrictions inherent to his property based on its size and shape and the improvements already existing on the property.

In my view, considering the evidence presented at the hearing and in the Motion for Reconsideration, Petitioner does not meet the uniqueness standard required by the Zoning Regulations. Although Petitioner's lot is somewhat narrower and deeper than others, in viewing the aerial photograph submitted by Mr. Hossfeld, it is also evident that the lot immediately to the west of Petitioner's is equally long and narrow; hence Petitioner's property is not unique. In addition, it is worth mentioning that in deciding these cases, I cannot make determinations in a vacuum and consider a property merely by itself, but I must also look at the effects on adjacent and nearby properties, as well as the neighborhood on the whole. In this case, a variance is not legally warranted and as stated in my previous Order, Petitioner's proposal would take away from the overall aesthetics and character of the neighborhood.

WHEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 21<sup>st</sup> day of September, 2009 that the aforementioned Motion for Reconsideration be and is hereby DENIED.

\_\_\_\_\_  
SIGNED  
THOMAS H. BOSTWICK  
Deputy Zoning Commissioner  
for Baltimore County

THB:pz