

IN RE: PETITION FOR VARIANCE	*	BEFORE THE
S/S South Lake Way, 450' E of c/line		
South Lake Court	*	ZONING COMMISSIONER
(19B South Lake Way)		
2 nd Election District	*	OF
4 th Council District		
	*	BALTIMORE COUNTY
Andrew S. Mullins, et ux		
Petitioners	*	Case No. 2010-0036-A

* * * * *

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, Andrew S. Mullins, and his wife, Lisa J. Mullins. The Petitioners seek relief from Sections 400.1 and 400.3 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit an accessory structure (detached garage) to be located in the side yard (east side) in lieu of the required rear yard, and with a height of 25 feet in lieu of the maximum allowed 15 feet. The subject property and requested relief are more particularly described on the 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 was Andrew Mullins, co-owner of the property. Appearing as an interested person was Steven R. Bowers, an adjacent neighbor residing at 21 South Lake Way.

Testimony and evidence offered revealed that the subject property is a rectangular shaped parcel located on the south side of South Lake Way just east of South Lake Court in Reisterstown. The property is identified as Lot 20A, Section 1 of the Folly Quarters subdivision and contains a gross area of 2.080 acres, more or less, zoned R.C.4, and is being improved with a two-story, four bedroom, single-family dwelling. The Petitioners have owned the property since 2008 and propose to construct a detached garage, 40' x 25' in dimension, in the rear side yard of their property as part of the improvements. Testimony indicated that the garage is desired to

provide additional storage for the Petitioners' cars and personal property. Testimony and photographs submitted show that the property is heavily wooded and just north of the Liberty Reservoir that is adjacent to the southern property line. Thus, the proposed garage cannot be located in the rear yard as required by the regulations due to environmental constraints and wildlife sanctuary, well location(s) and area illustrated as "Limits of Disturbance" on the site plan. Moreover, due to the configuration of the property, the topography that slopes to the rear, and the orientation of the house thereon, the proposed garage will be located in the side yard, behind the front foundation wall of the house. Mr. Mullins indicated the proposed location would be most appropriate. It was indicated that the neighboring property owner's residence is located a significant distance away. As to the height variance, Petitioners submitted photographs of other accessory structures in the community featuring pitched roofs and dormers that required height variances.

Testimony indicated that the garage would be used to provide storage for family automobile as well as provide much needed storage space above. The garage will be built to resemble the Petitioners home and feature a pitched roof with dormer windows, thereby requiring a variance from the height regulations. The Petitioners also requested that the building have a sink for their convenience. As noted above, Mr. Bowers attended not in opposition to the location or height of the garage, but to determine its intended use. Apparently, Mr. Mullins owns a cleaning/janitorial services company and Mr. Bowers would be vehemently opposed if the accessory structure would be used for commercial purposes. Following discussion on this issue, the Petitioner assured Mr. Bowers that his company vehicles and equipment would not be kept on the property but off site. Mr. Bowers's primary concern was satisfactorily addressed. There is no intention of utilizing the building for any purpose other than residential and it will not be converted as a dwelling unit. He (Bowers) indicated his support of the proposal following his review of the building elevations for the garage. (Petitioners' Exhibit 3).

After due consideration of the testimony and evidence presented, I am persuaded that the Petitioners have met the requirements of Section 307 of the B.C.Z.R. for relief to be

granted. Strict compliance with the regulations would result in a practical difficulty and unreasonable hardship for the Petitioners. As noted above, the neighbors do not oppose this proposal and there were no adverse comments from any County reviewing agency. Thus, I am persuaded that relief can be granted, subject to the restrictions set forth hereinafter.

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

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 2nd day of October 2009 that the Petition for Variance seeking relief from Sections 400.1 and 400.3 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit an accessory structure (detached garage) to be located in the rear/side yard (east side) in lieu of the required rear yard, and with a height of 25 feet in lieu of the maximum allowed 15 feet, in accordance with Petitioners' Exhibits 1 and 3, 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) The garage shall be limited to uses accessory to the residential use of the property. It shall not be used for commercial or business purposes. Moreover, the Petitioners shall not allow or cause the garage to be converted to a second dwelling unit and/or apartments. There shall be no living quarters contained therein, and no kitchen/cooking, or bathroom facilities.
- 3) When applying for any permits, the site plan filed must reference this case and set forth and address the restrictions of this Order.

WJW:dlw

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