

IN RE: PETITIONS FOR SPECIAL HEARING	*	BEFORE THE
AND VARIANCE		
NW side of Manor Road; 350 feet S	*	DEPUTY ZONING
of Meadowhill Court		
3 rd Election District	*	COMMISSIONER
5 th Councilmanic District		
(14614 Manor Road)	*	FOR BALTIMORE COUNTY
William and Katharine Foard	*	
<i>Legal Owners</i>		CASE NO. 2010-0115-SPHA
	*	

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Deputy Zoning Commissioner for consideration of Petitions for Special Hearing and Variance filed by the legal owners of the subject property, William and Katharine Foard. The Special Hearing request was filed in accordance with Section 500.7 of the Baltimore County Zoning Regulations (“B.C.Z.R.”) to allow a proposed accessory building that is larger than the principal dwelling in light of the definition limits for accessory buildings in Section 101 of the B.C.Z.R. The Variance request is from Sections 400.1 and 400.3 of the B.C.Z.R. to permit a proposed detached garage with a height of 22 feet and located in the front yard in lieu of the maximum allowed height of 15 feet and required location in the rear yard. The subject property and requested relief are more fully described on the site plan which was marked and accepted into evidence as Petitioners’ Exhibit 1.

Appearing at the requisite public hearing in support of the requested Special Hearing and Variance petitions on behalf of Petitioners was Stuart Foard. Mr. Foard is Petitioners’ son. There were no Protestants or other interested persons in attendance.

Testimony and evidence presented revealed that the subject property is irregular-shaped and consists of two parcels containing a total of approximately 11.166 acres of land zoned R.C.5.

The property is improved with an existing two-story wood frame single-family dwelling and is located on the west side of Manor Road, north of Sweet Air Road, in the Jacksonville/Phoenix area of northern Baltimore County. The dwelling is situated at the northernmost area of the property on the main parcel that consists of 10.4279 acres. Access to the property from Manor Road is by way of the second parcel -- Parcel "B."

Petitioners purchased the subject property in 1975 and have resided there ever since. Due to the large amount of property, Petitioners have significant lawn and garden equipment that they use to maintain the property. In order to store this equipment out of the weather, Petitioners desire to construct a large barn/shed. As shown on the site plan, the barn would be located at the northwest corner of the property. Due to the placement of the dwelling facing south, the barn would be situated in the front yard of the property. The barn would also be up to 22 feet in height in order to store large tractors; hence, Petitioners have requested the instant variance relief. The barn would also be approximately 1,800 square feet in size, slightly larger than the principal dwelling ground floor area of just under 1,700 square feet. Therefore, Petitioners are also in need of special hearing relief.

In support of the requested relief, Mr. Foard pointed out that the property has a very unusual shape. This, coupled with the age of the dwelling dating back to 1872 and the location of the dwelling so near the northern property line, limits the ability of Petitioners to place improvements on the property anywhere but the front yard. As shown in the photographs that were marked and accepted into evidence as Petitioners' Exhibits 2A through 2D, the front yard of the property is substantial. The topographical markings on the site plan and the photographs also illustrate the significant slopes to the property, also limiting the location of accessory structures or other improvements. Additional photographs marked and accepted into evidence as

Petitioners' Exhibits 3A through 3D show the expanse of property beyond the principal dwelling and also depict the general location of the proposed barn. Mr. Foard also submitted elevation drawings that were marked and accepted into evidence as Petitioners' Exhibit 5. These drawings depict the proposed 1½-story barn with a rustic look that would fit in with the rural-residential character of the area.

The Zoning Advisory Committee ("ZAC") comments were received and are made part of the record of this case. The comment dated November 12, 2009 from the Office of Planning indicates it does not oppose Petitioners' request to permit an accessory structure to be larger than the principal dwelling with a height of 22 feet and located in the front yard in lieu of the rear yard provided certain conditions are met, including that Petitioner or subsequent owners shall not convert the accessory structure into a dwelling unit or apartment, nor shall it be used for commercial purposes.

Considering all the testimony and evidence presented, I am persuaded to grant the variance relief. I find special circumstances or conditions exist that are peculiar to the land or structure which is the subject of the variance requests. It is evident that Petitioners are in a difficult situation because of the shape of the property and the location of the principal dwelling, which affords them little opportunity to locate improvements in the required rear yard. Indeed, the vast majority of the property consists of the front yard. The available area for an accessory structure is further limited by the topography of the property with significant slopes, in addition to well and septic areas. These unusual circumstances cause the subject property to be disproportionately impacted by the Zoning Regulations as compared with other properties in the District. Hence, I find the property to be unique in a zoning sense. I also find that undue

hardship would befall Petitioners if the requested relief were not granted; that is, Petitioners would be unable to adequately store their lawn and garden equipment out of the weather.

I further find that the requested variances can be granted in strict harmony with the spirit and intent of said regulations, and in such manner as to grant relief without injury to the public health, safety and general welfare.

As to the special hearing, I am also persuaded to grant this relief. Although the property consists of over 11 acres, the ground floor area of the principal dwelling is fairly small, consisting of only 1,700 square feet. In order to construct an accessory structure of sufficient size to meet their needs in maintaining the property, Petitioners desire to construct a barn of approximately 1,800 square feet. As shown on the elevation drawings, the barn will be very functional, with a large sliding door and a garage door for moving equipment in and out of the barn, as well as aesthetic accents such as windows and a wind vane on the roof. In my judgment, although the barn will be slightly larger than the ground floor footprint of the principal dwelling, it will certainly not overwhelm the property or the dwelling. Moreover, it will be located far enough away on this large tract of land so as not to crowd the dwelling.

Pursuant to the advertisement, posting of the property, and public hearing on these petitions held, and after considering the testimony and evidence offered, I find that Petitioners' Special Hearing and Variance requests should be granted.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County, this 11th day of December, 2009 that Petitioners' request for Special Hearing relief filed in accordance with Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.) to allow a proposed accessory building that is larger than the principal dwelling be and is hereby **GRANTED**; and

IT IS FURTHER ORDERED that Petitioners' request for Variance from Sections 400.1 and 400.3 of the B.C.Z.R. to permit a proposed detached garage with a height of 22 feet and located in the front yard in lieu of the maximum allowed height of 15 feet and required location in the rear yard be and are hereby **GRANTED**.

The relief granted herein is subject to the following:

1. Petitioners may apply for their permits and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, Petitioners would be required to return, and be responsible for returning, said property to its original condition.
2. Petitioners or subsequent owners shall not convert the 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