

IN RE: PETITION FOR ADMIN. VARIANCE
SE side of Calgary Court; 250 feet E of
the c/l of Meadow Heights Road
2nd Election District
4th Councilmanic District
(7 Calgary Court)

Ronald and Pamela Denise Tate
Petitioners

* BEFORE THE
* DEPUTY ZONING
* COMMISSIONER
* FOR BALTIMORE COUNTY
* **Case No. 2010-0156-A**

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FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Deputy Zoning Commissioner as a Petition for Administrative Variance filed by the legal owners of the subject property, Ronald and Pamela Denise Tate for property located at 7 Calgary Court. The Variance request is from Section 1B02.3.B (R6 1963 Regulations – Sections 211.3 and 211.4) to permit a proposed addition (two car garage) with a side yard setback of 3 feet (and a combination of 14 feet) in lieu of the required 8 feet (and combination 20); and rear yard setback of 20 feet in lieu of the required 30 feet. The subject property and requested relief are more particularly described on the site plan that was marked as Petitioners’ Exhibit 1. The proposed addition includes a new two car attached side load garage.

The Zoning Advisory Committee (ZAC) comments were received and are made part of the record of this case. The comments indicate no affirmative recommendations concerning the requested relief.

The Petitioners having filed a Petition for Administrative Variance and the subject property having been posted on November 29, 2009 and there being no request for a public hearing, a decision shall be rendered based upon the documentation presented. The Petitioners filed the supporting affidavit as required by Section 32-3-303 of the Baltimore County Code. In

their affidavit, Petitioners indicate that due to the size and shape of the lot a two car garage cannot meet the required side setback of 8 feet.

In considering a request for variance, I must do so in accordance with the mandate of the Maryland Court of Special Appeals in the case of *Cromwell v. Ward*, 102 Md.App. 691 (1995) and their interpretation of Section 307 of the B.C.Z.R. In that case, the Court interpreted the regulation to require that a two-prong test be met in order for variance relief to be granted. First, it must be shown that the property is unique in some manner and that this uniqueness drives the need for variance relief. Secondly, upon the determination that the property is unique, it must then be considered whether strict compliance with the regulation would cause a practical difficulty upon the property owner and be unnecessarily burdensome. In my judgment, based on the evidence presented by Petitioners, there is not sufficient evidence of unusual conditions or characteristics that are unique to this lot, and which drive the need for the variance. In short, there is not sufficient evidence to suggest that this property meets the uniqueness requirement. As such, having determined that no uniqueness exists as to the Petitioners' property, I must therefore deny the variance requested by the Petitioners. Moreover, in the instant matter, I am not persuaded that the size and shape of Petitioners' lot, in and of itself, makes it unique such that the zoning regulations disproportionately affect the subject property as compared to others in the zoning district.

Finally, I must also determine whether the request is within the spirit and intent of the zoning regulations and its impact, if any, on adjacent properties. Although I am certainly understanding and empathetic with Petitioners in their desire to construct a garage, in my view, the configuration of the subject property and the orientation of the dwelling does not lend itself to the construction of a garage addition as proposed on the site plan. The Petitioners' site plan which was submitted as part of the Petition, fails to show the existing in-ground swimming pool and shed

that are located in the back yard. This indicates that the Petitioners are already enjoying amenities on their property that adjacent properties do not have. The proposed construction of a two car garage on the subject site is not appropriate and would put this property substantially at odds with other existing dwellings nearby. Finally, I believe the proposed two car garage structure and the attendant size will overcrowd the land and will have an adverse impact on the overall appearance and character of the neighborhood, especially vis-à-vis other properties nearby. Hence, the request is not within the spirit and intent of the Zoning Regulations. I cannot find that special circumstances or conditions exist that are peculiar to the land or structure which is the subject of the variance request. Thus, I am persuaded in this case to deny the variance.

Pursuant to the posting of the property and the provisions of both the Baltimore County Code and the Baltimore County Zoning Regulations, and for the reasons given above, the requested variance should be denied.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County, this 24th day of December, 2009 that a variance from Section 1B02.3.B (R6 1963 Regulations – Sections 211.3 and 211.4) to permit a proposed addition (two car garage) with a side yard setback of 3 feet (and a combination of 14 feet) in lieu of the required 8 feet (and combination 20); and rear yard setback of 20 feet in lieu of the required 30 feet is hereby **DENIED**.

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