

IN RE: PETITION FOR ADMIN. VARIANCE	*	BEFORE THE
S side of Old Court Road; 600 feet W of		
the c/l of Dogwood Road	*	DEPUTY ZONING
2 nd Election District		
4 th Councilmanic District	*	COMMISSIONER
(9905 Old Court Road)		
	*	FOR BALTIMORE COUNTY
Craig J. Sigismondi		
<i>Petitioner</i>	*	Case No. 2010-0181-A

* * * * *

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 owner of the subject property, Craig Sigismondi for property located at 9905 Old Court Road. The variance request is from Sections 400.1 and 400.3 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit an accessory structure (garage) to be located in the side yard of a single-family dwelling with a height of 16 feet in lieu of the required rear yard and 15 foot height. The subject property and requested relief are more particularly described on the site plan that was marked and accepted into evidence as Petitioner’s Exhibit 1.

On January 13, 2010, the Undersigned called for a formal hearing on this matter. The property is the subject of an active violation case¹. A public hearing was requested based on the pending Code Enforcement matter and the need to obtain additional facts as to that underlying case, including the fact that a building permit was issued (#B714056) for the construction of a garage connected by a breezeway on the side of a single-family dwelling, but a County Inspector found a detached garage without a breezeway and garage height exceeding the maximum 15 feet. The hearing was subsequently scheduled for Friday, April 30, 2010 at 9:00 AM in Room 104 of

¹ CO0064211, FA0163727

the Jefferson Building, 105 West Chesapeake Avenue, Towson, Maryland. In addition, a sign was posted at the property and an advertisement was published in *The Jeffersonian* newspaper, giving neighbors and interested citizens notice of the hearing.

Appearing at the public hearing in support of the variance request was Petitioner Craig Sigismondi. There were no Protestants or other interested persons in attendance.

Testimony and evidence received in the case revealed that the subject property is irregular in shape and contains approximately 3.01 acres, more or less, zoned R.C.2. The property is located on the south side of Old Court Road, just west of Dogwood Road, in the Woodstock area of Baltimore County. The property is presently improved with a single-family dwelling consisting of approximately 2,100 square feet, without an attached garage. According to tax records, the home was built in 1988 and Petitioner acquired the property approximately a year ago. Shortly thereafter, Petitioner applied for a permit to construct a detached garage -- approximately 30 feet by 30 feet in size with a height of 16 feet -- that would be connected to the home with a breezeway.

Near the conclusion of construction, due to unforeseen circumstances, Petitioner was unable to fully complete the garage with the breezeway. During the final inspection, a County Inspector observed that the garage was not connected to the home via a breezeway. With no connection, the unattached structure was improperly situated in the side yard rather than the rear yard, and with a height of 16 feet exceeding the maximum 15 feet. Petitioner does not foresee an ability to erect a breezeway that would fit in with the existing home and the new garage and, as a result, filed the instant request for variance relief. In support of the variance, Petitioner indicated that the property is irregularly shaped in that it tapers significantly in the rear. There is also a wooded area at the rear of the property and at the west side of the property. Petitioner also

indicated that the topography of the rear yard precluded placing the garage in that area originally. He indicated that the current location in the side yard is most practically and aesthetically appropriate. The driveway terminates on the same side of the home as where the garage is located and there is also a large existing parking pad that provides a sensible entrance into the garage entrance. An aerial photograph was marked and accepted into evidence as Petitioner's Exhibit 2. Although it does not specifically show the garage, it does give an illustrative bird's eye view of the property and the layout of the home and the driveway and parking pad as described above. As for the height, Petitioner explained that he did not realize the roof trusses he ordered would ultimately result in an overage of 1 foot above the height that is permitted. The main reason for the height is to allow for loft storage of household items via the attic style pull-down stairs.

The Zoning Advisory Committee (ZAC) comments were received and are made part of the record of this case. Comments were received from the Office of Planning dated January 4, 2010 which recommends that the accessory structure not be converted into a dwelling unit or apartment, not contain any sleeping quarters, living area, kitchen or bathroom facilities, and not be used for commercial purposes. Comments were received from the Department of Environmental Protection and Resource Management dated February 2, 2010 which states that the existing well and septic must be shown on the site plan.

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 request. I find the property to be unique based on the unusual shape, the wooded areas, and the topography as described by Petitioner.

I further find that Petitioner would suffer practical difficulty and undue hardship if the variances were to be denied. Not only would Petitioner be required to incur a needless expense to remove the garage, but strict compliance would result in placement of the garage in a less functional and aesthetically pleasing area of the property. Finally, I find that the 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. In viewing the site plan and the aerial photograph, it is clear that the only potentially affected residence is screened by a tree line along the eastern property boundary, and is a substantial distance (approximately 150 feet) from the property line. It is also noteworthy that public notice of Petitioner's plan was posted on the property for Petitioner's administrative variance request, as well as to notify neighbors and interested persons of the public hearing and there are no communications in the file reflecting any opposition, and no citizens attended the hearing as well.

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 variances should be granted.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County, this 3rd day of May, 2010 that a Variance from Sections 400.1 and 400.3 of the Baltimore County Zoning Regulations ("B.C.Z.R.") to permit an accessory structure (garage) to be located in the side yard of a single-family dwelling with a height of 16 feet in lieu of the required rear yard and 15 foot height, be and are hereby **GRANTED**, subject to the following:

1. Petitioner may apply for his building permit and be granted same upon receipt of this Order; however, Petitioner is hereby made aware that proceeding at this time is at his own risk until such time as the 30 day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioner would be required to return, and be responsible for returning, said property to its original condition.

2. 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