

**IN RE: PETITION FOR ADMIN. VARIANCE**

N side of Berans Road; 110 feet E of  
the c/l of Bullneck Circle  
8<sup>th</sup> Election District  
2<sup>nd</sup> Councilmanic District  
**(1239 Berans Road)**

Jai and Debra Seunarine  
*Petitioners*

\* BEFORE THE  
\* DEPUTY ZONING  
\* COMMISSIONER  
\* FOR BALTIMORE COUNTY  
\* **Case No. 2010-0201-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 owners of the subject property, Jai and Debra Seunarine for property located at 1239 Berans Road. The variance request is as follows:

- From Section 1A03.4.B.4 (1984 regulations for RC 4) of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a side yard setback of 25 feet in lieu of the required 50 feet for a proposed garage addition attached to the principal dwelling, and to determine whether a 32.33 feet non-enclosed breezeway/deck combination meets the requirements for a breezeway; and
- From Section 1A03.4.A of the B.C.Z.R. to permit a height of 39 feet in lieu of the required 35 feet; and
- To amend the Third Amended Final Development Plan for "Morrisville", Lot 19 only.

The subject property and requested relief are more particularly described on the site plan that was filed with the Petition and marked as Petitioners' Exhibit No. 1. In the Affidavit in Support of the Administrative Variance, Petitioners request the height variance in order to replace the existing detached garage located at the rear of the home with a three-story four car garage addition with a loft connected by a deck and breezeway to the existing home. Petitioners

are in need of more room in order to provide ample storage space for farm equipment and utility vehicles as well as accommodate musical instruments and storage space. The height variance of 4 feet 8 inches is in order to construct the garage with clerestory windows at a height of 39 feet in lieu of the maximum 35 feet. Petitioners also request a side setback of 25 feet instead of the 50 feet setback specified in the original development plan. The Petitioners' property is zoned RC 4 which under the current rules permits a side setback of 25 feet. However, the original development plan dictates a side setback of 50 feet. Based on the location of the existing 100 year floodplain and the limited suitable building envelope, the Petitioners are requesting a variance of 25 feet total to permit a side setback of 25 feet instead of 50 feet. Additionally, a final development plan amendment is being requested to allow the house to be located outside of the building envelope as shown on the final development plan.

The Affidavit further states that Petitioners have carefully reviewed the existing lot conditions and believe that the requested variances are necessary based on the location of the existing dwelling, the sloping nature of the lot, the location of the floodplain, and the location of the existing septic reserve. Further, Petitioners have located the addition within the footprint of the existing garage and parking pad in order to ensure that the addition will not negatively impact any neighbor or alter the essential character of the land. Petitioners' lot, which is accessed via a panhandle, is set back significantly from Berans Road and is secluded with trees and foliage and not visible from the street. There is a significant wooded area between Petitioners' home and any bordering neighbor. Approval of the variances would permit appropriate attachment of the garage to the existing home and maintain the architectural integrity of the Victorian roof lines and pitches of the existing home, as shown on the photographs that accompanied the variance filing. The existing dwelling is at an elevation below the bordering neighbors' properties and no

structure can be built behind Petitioners' home because the property borders the 100 year floodplain. Additionally, Petitioners' family owns the farm immediately behind the home as well as the lots immediately adjacent to the property to the north, northeast, east and southeast boundaries.

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 February 18, 2010 which indicates that if granted, the variance would allow Petitioners to raze an existing freestanding garage and construct a larger four car garage and storage area attached to the existing dwelling via a breezeway/deck system. The property is a lot on the plat of Morrisville approved by the County in 1988. The Petitioners' request should not have an adverse impact on the neighboring properties due to the wooded nature of the area. The Planning Office does not object to the request provided the structure is attached as shown on the site plan detail. This structure is considered one single-family dwelling.

The Petitioners having filed a Petition for Administrative Variance and the subject property having been posted on January 31, 2010 and there being no request for a public hearing, a decision shall be rendered based upon the documentation presented.

The Petitioners have filed the supporting affidavits as required by Section 32-3-303 of the Baltimore County Code. Based upon the information available, there is no evidence in the file to indicate that the requested variance would adversely affect the health, safety or general welfare of the public and should therefore be granted. In the opinion of the Deputy Zoning Commissioner, the uncontroverted information contained within the case file, including photographs and affidavits submitted, provide sufficient facts that comply with the requirements

of Section 307.1 of the B.C.Z.R. Furthermore, strict compliance with the B.C.Z.R. would result in practical difficulty and/or unreasonable hardship upon the Petitioners.

Neither the terms “covered passageway” nor “breezeway” are specifically defined in the B.C.Z.R. Section 101.1 of the B.C.Z.R. states that “[a]ny word or term not defined in this section shall have the ordinarily accepted definition as set forth in the most recent edition of Webster's Third New International Dictionary of the English Language, Unabridged.” A breezeway is defined therein as “a roofed open-air passage or porch connecting two buildings (as a house and garage) or forming a corridor between two halves of a building (as of a cabin).” A passageway is defined as “a way that allows passage to or from a place or between two points; a corridor, path.”

In my view, based on the evidence, the open roofline that connects the Seunarine home with their proposed three-story four car garage is undoubtedly a “breezeway” or “covered passageway” which allows the garage to be connected to the dwelling, as provided by Section 400.1 of the B.C.Z.R. The relevant question here in determining whether the breezeway/deck combination meets the requirements for a breezeway is whether the breezeway is in fact an open air passage or porch that connects the home and garage and provides access to and from the home and the garage. In the instant matter, there is access between the dwelling and the garage addition by way of a covered breezeway on the garage level and an open deck between the dwelling and the second story of the garage. In short, there is a continuous covered passage from the garage to the house which is the very essence of a breezeway or covered passageway.

Petitioners’ existing home and the proposed garage feature many of the details found in classic Victorian Queen Anne style homes including a steep roof, front-facing gable, bay windows, one-story porch that extends across one or two sides of the house, balcony, round or

square towers/turrets, and a complicated, asymmetrical shape. The proposed garage structure with its many architectural features, although substantial when compared to most garage structures, appears to be an aesthetically pleasing addition to the Petitioners' 4.39 acre property. Since the surrounding properties are owned by members of the Petitioners' family, the proposed garage structure, although significant in size, will not be a detriment to the community. The elevation drawings submitted with the Petition were marked as Petitioners' Exhibits 2A and 2B and depict a very attractive and well designed garage.

Petitioners' existing dwelling as well as the proposed garage, by virtue of its connecting breezeway and deck, are generally considered as one dwelling unit. This is confirmed by the Office of Planning's ZAC comment. As such, I will not impose the customary conditions normally attendant to an accessory structure that the garage not be used for commercial purposes, not contain any sleeping quarters, living area, kitchen or bathroom facilities.

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 granted.

THEREFORE, IT IS ORDERED, by the Deputy Zoning Commissioner for Baltimore County, this 1<sup>st</sup> day of March, 2010 that the requests for Variance as follows:

- From Section 1A03.4.B.4 (1984 regulations for RC 4) of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a side yard setback of 25 feet in lieu of the required 50 feet for a proposed garage addition attached to the principal dwelling, and a determination that a 32.33 foot non-enclosed breezeway/deck combination meets the requirements for a breezeway; and

- From Section 1A03.4.A of the B.C.Z.R. to permit a height of 39 feet in lieu of the required 35 feet; and
- To amend the Third Amended Final Development Plan for "Morrisville", Lot 19 only,

be and are hereby GRANTED, subject to the following:

1. The Petitioners may apply for their building permit 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, the Petitioners would be required to return, and be responsible for returning, said property to its original condition.
2. The garage shall be attached to the existing dwelling as depicted on the site plan entitled "Plat to Accompany Zoning Variance for the Seunarine Residence 1239 Berans Road" dated 01-08-10 and marked as Petitioners' Exhibit 1, and the elevation drawings for the Seunarine Residence dated 11-20-09 and marked as Petitioners' Exhibits 2A and 2B.
3. The garage addition shall not be used for commercial purposes.
4. When applying for a building permit, the site plan filed must reference this case and set forth and address the restrictions of this Order.

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