

**IN RE: PETITIONS FOR SPECIAL HEARING * BEFORE THE
AND VARIANCE**

W side of Garrison Forest Road; 1180 feet	*	DEPUTY ZONING
S of the c/l of Caves Road	*	COMMISSIONER
3 rd Election District	*	
2 nd Councilmanic District	*	
(328 Garrison Forest Road)	*	FOR BALTIMORE COUNTY

Greenspring Valley Home Company, LLC *

Petitioner

* Case No. 2010-0256-SPHA

* * * * *

AMENDED 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 Frank A. Bonsal III, Managing Member, on behalf of the legal property owner, Greenspring Valley Home Company, LLC. Petitioner is requesting Special Hearing relief in accordance with Section 500.7 of the Baltimore County Zoning Regulations (“B.C.Z.R.”) and pursuant to Sections 1A04.3.B.1.b(1) and 1A04.3.B.2.b of the B.C.Z.R. for a building face setback to a lot line of 26 feet in lieu of the required 50 feet. Alternatively, Petitioner is also requesting Variance relief from Section 1A04.3.B.2.b of the B.C.Z.R. to allow a building face setback to a lot line of 26 feet in lieu of the required 50 feet. The subject property and requested relief are more fully described on the site plan that was marked and accepted into evidence as Petitioner’s Exhibit 1.

Appearing at the requisite public hearing in support of the requested relief was Frank A. Bonsal III on behalf of Petitioner Greenspring Valley Home Company, LLC, and his attorney, Devorah M. Lewin, Esquire with DLA Piper. Also appearing in support of the requested relief was Bruce E. Doak with Gerhold, Cross & Etzel, Ltd., the professional land surveyor who prepared the site plan. There were no Protestants or other interested persons in attendance.

Testimony and evidence offered revealed that the subject property is rectangular-shaped and consists of approximately 2.150 acres, more or less, zoned R.C.5. The property is located on the west side of Garrison Forest Road, just south of Spring Forest Court and north of the Greenspring Valley Hunt Club golf course, in the Owings Mills area of Baltimore County. The property is currently improved with an existing two-story brick dwelling and attached two car garage. There is also a large flagstone patio to the rear of the dwelling. As shown on the site plan, the dwelling and garage combination present an L-shaped configuration. In addition, access to the property is by way of a shared private road easement extending west off Garrison Forest Road along the southern end of the property to a driveway leading to the interior of the property.

The property is owned by a limited liability company, but Mr. Bonsall and his family have resided there since approximately 2004 and are the fourth owners of the property. Mr. Bonsall indicated his family is from the Baltimore area, but moved to Nashville, TN for a time before moving back to Baltimore. Mr. Doak, Petitioner's land use consultant, indicated that the home was built in 1979 and consists of approximately 4,200 square feet. As referenced on the site plan, the home was built to the far western side of the property. In addition, although the property itself fronts on Garrison Forest Road, the dwelling actually faces west, with the rear yard to the east -- on the side that faces the public road. Mr. Doak also submitted photographs of the subject property that were marked and accepted into evidence as Petitioner's Exhibits 2A through 2M. The photographs depict the long access road from Garrison Forest Road with a treeline along the southern end of the property, as well as a number of other mature trees that dot the landscape. The photographs also depict the exterior of the dwelling and the surrounding landscape, which appears to be very well kept and maintained.

At this juncture, Mr. Bonsall desires to construct a two car garage addition located adjacent and perpendicular to the existing garage, as depicted on the site plan. The proposed garage would be connected to the dwelling via a covered breezeway. Moreover, as shown on the architectural drawings that were marked and accepted into evidence as Petitioner's Exhibit 3, the garage addition would be two stories with the garage on the first level and stairs to a loft for storage on the second floor. A doorway would lead from the covered breezeway to a doorway at the existing garage attached to the home. Because of the topography of the proposed garage location, which raises about five feet in grade from the driveway level, it is also planned that the garage would be built into the hill as also shown on the architectural drawings. As explained by Mr. Doak, this will lessen the full impact of the garage height on the adjacent neighbor's home to the west, which he also pointed out is about 400 feet west of the subject property -- at the end of the shared private road.

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 April 20, 2010 which indicates they do not oppose the Petitioner's request provided the architecture of the addition is in keeping with the elevation drawings submitted by Sarah Crosby Schweizer, Ltd.

Following the hearing and subsequent to an Order being issued in the case, the undersigned received correspondence dated June 15, 2010 from Thomas J. Ryan, Esquire, attorney for Edgar Allen Poe, 3rd and Christina Zuray Poe, the adjacent neighbors to the north and west of the subject property. Mr. Ryan expressed his clients' concerns about the proposed garage addition, particularly as to visual impact of the structure and the adequacy of screening along the property line running north-south between their property and the subject property, in order to shield the new proposed structure from their view. The undersigned then responded

with a letter to the attorneys dated June 16, 2010 informing them that I would hold the matter as a pending Motion for Reconsideration and would consider revising the Order if the parties came to any additional agreement regarding conditions not specifically covered in the original Order.

Thereafter, the undersigned received a letter dated July 12, 2010 from Devorah M. Lewin, Esquire, attorney for Petitioner, indicating the parties had entered into a written agreement as to landscape screening, including the particular type of trees and shrubs to be planted. Ms. Lewin attached the executed Agreement dated July 6, 2010 as well as a Landscape Plan as part of that Agreement. Hence, this Agreement shall be included and incorporated into the conditions set forth in the original Order dated June 14, 2010.

Turning now to the instant matter, Petitioner has sought a special hearing and, alternatively, a variance for basically the same relief. The proposed construction of the garage addition attached to the principal structure via a covered breezeway triggers the building setback requirements of Section 1A04.3.B.2.b of the B.C.Z.R.; namely, to allow a principal building in the R.C.5 Zone to be situated 26 feet from any lot line other than a street line in lieu of the minimum required 50 feet. The case was presumably filed as a special hearing under Section 1A04.3.B.1.b(1) of the B.C.Z.R., which states that:

The owner of a single lot of record that is not a subdivision and that is in existence prior to September 2, 2003, but does not meet the minimum acreage requirement, or does not meet the setback requirement of Paragraph 2, may apply for a special hearing under Article 5 to alter the minimum lot size requirement.

Petitioner's property appears to be a single lot of record in existence prior to September 2, 2003, but it does meet the minimum acreage requirement. Although the introduction of the proposed new garage means the property would not meet the setback requirement of Paragraph 2, this case does not involve altering the minimum lot size requirement. Rather, it involves altering the

required 50 foot setback for this proposed new structure to be added to the principal building. Hence, in my view, the appropriate review for this case is under the Variance standard.

After due consideration of the testimony and evidence presented, I am persuaded to grant the requested 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. Although not irregularly shaped, the property is certainly unusual. It fronts Garrison Forest Road, but access to the property is via a shared private road easement to the south of the subject property. It is also unusual that the improvements to the property are at the far west side of the property, which contributes to the limited space available for the garage addition, and the “front” of the subject dwelling faces away from the public road. In addition, the proposed new garage at the location shown on the site plan makes the most practical sense, given the driveway location and configuration of the existing improvements. There also appears to be some natural screening in the form of mature trees along the southern end of the subject property and in the area of the proposed garage, again, to lessen the impact of the garage, if any, on adjacent properties.

These different features of the property drive the need for variance relief, and the constraints imposed by these features would create a practical difficulty for Petitioner if strict compliance with the B.C.Z.R. were required. I also find that the variance relief 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 the photograph depicted Petitioner’s Exhibit 2K indicates, the nearest affected neighbor is approximately 400 feet away and the area between the properties is elevated, reducing visibility. With the construction of the new garage built into the hill on Petitioner’s property, the potential visual impact to the adjacent property should be further reduced

However, because I do have some trepidation about the potential impact on the adjacent property to the west and after considering the concerns put forth by the adjacent property owner, I will require that Petitioner install additional evergreen screening along the western property line as detailed on the Landscape Plan that is part of the Agreement dated July 6, 2010 between Petitioner and Mr. and Mrs. Edgar Allen Poe, 3rd.

Pursuant to the advertisement, posting of the property and public hearing held, and after considering the testimony and evidence offered, I find that Petitioner's variance request should be granted and the special hearing request dismissed as moot.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 19th day of August, 2010 that Petitioner's Special Hearing request in accordance with Section 500.7 of the Baltimore County Zoning Regulations ("B.C.Z.R."), and pursuant to Sections 1A04.3.B.1.b(1) and 1A04.3.B.2.b of the B.C.Z.R., for a building face setback to a lot line of 26 feet in lieu of the required 50 feet be and is hereby **DISMISSED** as **MOOT**; and

IT IS FURTHER ORDERED that Petitioner's Variance request from Section 1A04.3.B.2.b of the B.C.Z.R. to allow a building face setback to a lot line of 26 feet in lieu of the required 50 feet be and is hereby **GRANTED**.

The relief granted herein is subject to the following conditions:

1. Petitioner is advised that it may apply for any required building permits and be granted same upon receipt of this Order; however, Petitioner is hereby made aware that proceeding at this time is at its own risk until the 30-day appeal period from the date of this Order has expired. If for whatever reason, this Order is reversed, Petitioner would be required to return, and be responsible for returning, said property to its original condition.

2. The architecture of the garage addition shall be in keeping with the elevation drawings submitted by Sarah Crosby Schweizer, Ltd. and the drawings accepted into evidence as Petitioner's Exhibit 3, and shall be approved by the Office of Planning prior to the issuance of a building permit.
3. Petitioner shall plant landscape screening along the western line of the subject property in accordance with the "Agreement" between Petitioner and the adjacent property owners, Mr. and Mrs. Edgar Allen Poe, 3rd dated July 6, 2010 and the "Landscape Plan," which is referenced and incorporated herein as Exhibit "A" to 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