

IN RE: **PETITIONS FOR SPECIAL HEARING** *
AND VARIANCE – E/S Schroeder Avenue,
1,600' NE/S of c/line of Sadler Lane *
(3804 Schroeder Avenue)
11th Election District *
5th Council District *

James L. Mosley, et ux
Petitioners *

BEFORE THE

ZONING COMMISSIONER

OF

BALTIMORE COUNTY

Case No. 2010-0267-SPHA

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner for consideration of Petitions for Special Hearing and Variance filed by the owners of the subject property, James L. Mosley and his wife, Angela T. Mosley. The Petitioners request a special hearing to approve a proposed detached accessory structure (garage) with an area footprint larger than that of the principal dwelling, and variance relief to permit the proposed detached accessory structure (garage) to have a height of 16 feet in lieu of the maximum allowed 15 feet. Relief is requested pursuant to Sections 500.7 and 400.3 of the Baltimore County Zoning Regulations (B.C.Z.R.). The subject property and requested relief are more particularly described on the site plan submitted which was accepted into evidence and marked as Petitioners' Exhibit 1.

Appearing at the requisite public hearing in support of the request were James and Angela Mosley, property owners. There were no Protestants or other interested persons present.

Testimony and evidence offered revealed that the subject property is an irregularly shaped parcel, located at the terminus of Schroeder Avenue in the Perry Hall. The property contains 1.75 acres, more or less, zoned D.R.2 and is improved with a modest one-story stucco/brick dwelling (936 square feet), a collapsed carport and two (2) sheds that are proposed to be razed if their zoning relief is granted. The Petitioners have owned and resided on the property for 44 years. Their metal frame carport was destroyed during the substantial winter snowfalls. This carport protected the Petitioners' boats and lawn equipment from the elements.

Petitioners submitted photographs (Exhibit 3) that clearly illustrate that the carport was completely destroyed by the nearly 60 inches of snow received December through January. Mr. Mosley is retired and enjoys fishing as a hobby and is desirous of having a pole barn building (detached garage) [30' x 40' in dimension, 16' high with a 4-12 roof pitch]. Building elevations were submitted as Exhibit 5 and show windows and two (2) 16' wide x 8' high overhead doors to be built by PPB, Inc. Having the structure will allow for complete boat coverage and easy access as a standard 7-foot overhead door with a 15-foot high garage would not be sufficient to allow the boats on trailers to enter. The extra space will allow for additional storage of lawn and garden supplies and boat items. Further testimony indicated that the Petitioners have discussed their proposal with their adjacent neighbors, Mr. Steven H. and Jane M. Sagner, who reside directly to the rear, and they have no objections. Petitioners submitted a letter of support, dated May 17, 2010, (Exhibit 2) from the Sagner's. Moreover, the property is heavily wooded with mature trees that buffer the view of the proposed garage from the adjacent property owners who have no objection. This new improvement will benefit the overall appearance of the property as two existing sheds will be razed.

After due consideration of the testimony and evidence presented, I am easily persuaded that Petitioners have met the requirements of Section 307 of the B.C.Z.R. and relief should be granted. Strict compliance with the regulations would result in a practical difficulty and unreasonable hardship for these Petitioners. Their primary residence is too compact to provide needed storage space. There were no adverse Zoning Advisory Committee (ZAC) comments received from any of the County reviewing agencies. However, the Office of Planning has requested that approval be conditioned to exclude conversions for living space and/or commercial uses.

Pursuant to the advertisement, posting of the property and public hearing on these Petitions held, and for the reasons set forth above, the relief requested shall be granted.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 24th day of May 2010 2009 that the Petitions for Special Hearing and Variance seeking relief, pursuant to Sections 500.7 and 400.3 of the Baltimore County Zoning Regulations

(B.C.Z.R.), to permit a proposed detached accessory structure (garage) with an area footprint larger than that of the principal dwelling and with a height of 16 feet in lieu of the maximum allowed 15 feet, in accordance with Petitioners' Exhibit 1, be and is hereby GRANTED, subject to the following restrictions:

- 1) The Petitioners may apply for their building permit and be granted same upon receipt of this Order; however, the Petitioners are hereby made aware that proceeding at this time is at their own risk until the 30-day appeal period from the date of this Order has expired. If an appeal is filed and this Order is reversed, the relief granted herein shall be rescinded.
- 2) The garage shall be limited to uses accessory to the residential use of the property. It shall not be used for commercial or business purposes. Moreover, the Petitioners or their assigns shall not allow or cause the garage to be converted to a second dwelling unit and/or apartments. There shall be no living quarters contained therein, and no kitchen or bathroom facilities.
- 3) When applying for any permits, 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 taken in accordance with Section 32-3-401 of the Baltimore County Code.

WJW:dlw

_____SIGNED_____
WILLIAM J. WISEMAN, III
Zoning Commissioner
for Baltimore County