

IN RE: PETITION FOR ADMIN. VARIANCE

W side of Emeleton Road; 240 feet S
of the c/l of Fairbridge Court
4th Election District
2nd Councilmanic District
(220 Embleton Road)

Jeanne Linton and Joseph Pilkerton
Petitioners

* BEFORE THE
* DEPUTY ZONING
* COMMISSIONER
* FOR BALTIMORE COUNTY
* **Case No. 2010-0268-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, Jeanne Linton and Joseph Pilkerton for property located at 220 Embleton Road. The variance request is from Sections 1B02.3.C.1 and 301.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a carport addition on the side of the existing dwelling with a side setback of 6 inches in lieu of the required 7.5 feet. The subject property and requested relief are more particularly described on Petitioners' Exhibit No. 1. Petitioners desire to construct a carport measuring 18 feet x 24 feet on a previously constructed concrete parking pad. Petitioners indicate that they wish to have a carport because they both have arthritis and are afraid of falling on the snow and ice as they get in and out of their vehicles.

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 states the lot is a regularly shaped, average size lot in the subdivision known as Suburbia. The reasons provided to not meet the requirements of Section 304 of the B.C.Z.R. The Planning Office discussed with the Petitioners' representative the option of reducing the size of the carport in order to increase the setback to 3 feet. The Petitioners object to any reduction in

the size of the carport. It is the opinion of the Office of Planning that a full variance hearing is needed. The Planning Office requests the scheduling of a hearing at the earliest possible date.

The Petitioners having filed a Petition for Administrative Variance and the subject property having been posted on April 17, 2010 and there being no request by an interested neighbor 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 information, 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.

In particular, Petitioner Jeanne Linton submitted a letter dated April 15, 2010 providing information why the carport is necessary as well as her response to the Office of Planning comments. In summary, Ms. Linton indicated that she purchased the property in 1992. Since that time, Petitioners have maintained their property in “pristine condition” and have made improvements to the interior and exterior of the dwelling and the landscaping. As part of the improvements, Petitioners constructed an 18 foot by 24 foot parking pad at the end of their driveway. They also poured footers for a potential carport in the future. At this juncture, as indicated above, Petitioners desire to construct a carport that would be attached to the northeast side of the property.

In support of this request, Ms. Linton also pointed out that a number of other properties in the neighborhood have improvements with similar setbacks. This includes fences, decks, carports, and sheds that are situated very near or at the adjacent property lines. Based on these photographs, it is clear that this neighborhood has an abundance of properties with improvements placed in a manner similar to what is proposed by Petitioners. Petitioners also prepared a short letter and gathered signatures from neighbors expressing that the neighbors have no problem with the building of the carport. It is also noteworthy that notice of Petitioners' variance request was provided to neighbors by way of a sign posted on the property from April 17, 2010 through May 3, 2010 and no neighbors expressed opposition or requested a public hearing on the matter.

While I certainly have the utmost respect for the Office of Planning's review and comments in this matter, in my judgment, a public hearing is not necessary. I believe Petitioners have provided adequate information of their plans and I am persuaded to grant the requested relief.

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 13th day of May, 2010 that a variance from Sections 1B02.3.C.1 and 301.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a carport addition on the side of the existing dwelling with a side setback of 6 inches in lieu of the required 7.5 feet is 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 carport shall be consistent with an open sided automobile structure and may be connected to the side of the home as shown on the site plan, but it shall not have any sidewalls, but only vertical posts supporting a roof, and shall remain open on the three exposed sides.
3. The carport shall not be converted into an enclosed structure at any time.

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