

IN RE: PETITION FOR VARIANCE	*	BEFORE THE
W side of Right Elevator Drive, 260 feet		
N and W of the c/l of Stabilizer Drive	*	DEPUTY ZONING
15 th Election District		
7 th Councilmanic District	*	COMMISSIONER
(22 Right Elevator Drive)		
	*	FOR BALTIMORE COUNTY
Adam A. and Sharon L. Strine		
<i>Petitioners</i>	*	CASE NO. 2010-0349-A

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Deputy Zoning Commissioner for consideration of a Petition for Variance filed by the legal owners of the subject property, Adam and Sharon Strine. Petitioners are requesting Variance relief from Section 1B02.3.B (Section III.C.3 of the 1945 regulations) of the Baltimore County Zoning Regulations (“B.C.Z.R.”) to permit an addition (carport) with a side yard setback as close as 3 feet in lieu of the required 7 feet. The subject property and requested relief are more fully described on the site plan, which was marked and accepted into evidence as Petitioners’ Exhibit 1.

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

Testimony and evidence offered revealed that the subject property is rectangular in size, contains 5,280 square feet, and is zoned DR 5.5 and DR 10.5. The property is located on the west side of Right Elevator Drive and 260 feet north and west of the centerline of Stabilizer Drive in the Middle River area of Baltimore County. The property is improved with a 1-½ story single-family dwelling that is depicted in photographs that were received after the hearing and

marked and accepted into evidence as Petitioners' Exhibits 4A through 4C.¹ The site contains several detached structures not shown on the site plan including two sheds, one of which is in the side yard, and an above ground swimming pool behind the side yard shed. According to tax records, the dwelling was constructed in 1942 and contains approximately 1,537 square feet. As indicated in the Affidavit that accompanied the Petition and in testimony at the hearing, Petitioners desire to have a carport to provide additional covered parking. The carport, which is already constructed, measures 12.7 feet wide x 23.2 feet deep and is supported by 4x4 wooden posts. The carport roof is slanted with a 4/12 or 4:12 pitch and asphalt shingles. The carport appears well built and is screened to some extent by a side yard wooden fence. It does still need some finishing work with fascia trim and gutters, but Petitioner indicated he was told to discontinue any work on the carport until the variance case was resolved.

In support of the requested variance relief, Mr. Strine indicated that his wife has an infirmity that makes it difficult for her to walk; she needs to park her vehicle close to the house and out of the elements. It also appears that, unlike some of the other homes in the neighborhood, Petitioner's home is placed such that it has a fairly close 9 foot setback on the north side, but a more substantial 16 foot setback on the south side, where the carport is currently located. As a result, there is more room on the south side and the carport fits in with the lot and the landscape. It is also a fairly benign structure that consists of only a slanted roof off the side of the home and five 4x4 wooden posts, with a completely open appearance. If permitted a

¹ During the hearing, Petitioner described the existing carport in detail and of course it was delineated on the site plan. Unfortunately, Petitioner did not bring photographs of the actual structure to the hearing, but offered to submit them via email following the hearing. The undersigned agreed to keep the record open for a day to give Petitioner that opportunity and indicated that photographs, if submitted, would be marked and accepted into evidence as Petitioners' Exhibit 4. There were three photographs that were submitted and marked as Petitioners' Exhibits 4A through 4C.

variance to keep the carport, Petitioner indicated he would finish the carport with trim and gutters and a downspout to direct water runoff toward Right Elevator Drive.

It should be noted that this matter came before me as a result of a complaint registered with the Code Enforcement Division of the Department of Permits and Development Management.² A Code Inspections and Enforcement Correction Notice and Stop Work Order were issued to Petitioners on May 11, 2010 for failure to obtain building permits for a carport on the side of the house and for a 6 foot tall fence. Hence, Petitioner filed the instant variance request for setback relief.³

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 July 7, 2010 which indicates that the site contains several detached structures not shown on the site plan including 2 sheds, one of which is in the side yard, and an above ground swimming pool behind the side yard shed. The existing shed in the side yard may also require a variance. The existing carport for which this variance is requested is minimally visible, consisting of a roof and several supporting posts. The Planning Office recommends approval subject to a letter of acceptance from the neighbor at 24 Right Elevator Drive.

After 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. The dwelling was constructed in 1942 long before the imposition of zoning on the property. The Victory Villa Section 2 subdivision plat, which was marked and accepted into evidence as Petitioners' Exhibit 3, shows that the lots

² Case No: CO-0077536

³ Petitioner also indicated that he will reduce the height of the fence to that which is permitted by the Regulations in order to comply with Code Enforcement, rather than requesting variance relief for a six foot height.

are similar in size; however, some of the dwellings were constructed at unusual angles on the various properties.

I also find Petitioners would suffer practical difficulty and undue hardship if the variance was to be denied. Petitioners would be unable to park their vehicle in the carport and ensure safe entry and exit to the vehicle and the dwelling while avoiding inclement weather.

Further, I find that the variance 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. The most affected property owner at 24 Right Elevator Drive did not attend the hearing or express any concern about the carport; therefore, I will not require the Petitioners to obtain a letter of acceptance as suggested by the Office of Planning. Petitioner indicated he spoke with the neighboring property owner, who did express concern over potential water runoff from the carport roof onto his adjacent property. As such, I will condition the relief on Petitioner providing fascia board trim and gutters and downspouts in order to direct water runoff toward Right Elevator Drive.

Pursuant to the advertisement, posting of the property, and public hearing on this petition held, and after considering the testimony and evidence offered, I find that Petitioners' variance request should be granted.

THEREFORE, IT IS ORDERED this 26th day of October, 2010 by this Deputy Zoning Commissioner that Petitioners' Variance request from Section 1B02.3.B (Section III.C.3. of the 1945 regulations) of the Baltimore County Zoning Regulations ("B.C.Z.R.") to permit an addition (carport) with a side yard setback as close as 3 feet in lieu of the required 7 feet, be is hereby GRANTED.

The relief granted and the findings made herein are subject to the following:

1. Petitioners are advised that they may apply for any required building permits 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, Petitioners would be required to return, and be responsible for returning, said property to its original condition.
2. Petitioners shall complete the carport in such a way that it is compatible with other similar structures in the neighborhood. This shall include “finishings” such as fascia board trim, gutters, and downspouts.
3. In order to ensure proper drainage, Petitioners shall fashion the downspouts and drainage tile so that water runoff from the carport roof is directed toward Right Elevator Drive, particularly not toward the adjacent owner’s property at 24 Right Elevator Drive.

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