

IN RE: PETITION FOR VARIANCE	*	BEFORE THE
S/S Middle River Avenue, 62' NE c/line	*	ZONING COMMISSIONER
Patapsco Avenue	*	OF
(3721 Middle River Avenue)	*	ZONING COMMISSIONER
15 th Election District	*	
6 th Council District	*	
Craig R. Dranbauer	*	Case No. 2011-0105-A
Petitioner	*	

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner for consideration of a Petition for Variance filed by the owner of the subject property, Craig R. Dranbauer. The Petitioner requests variance relief from Section 1B02.3.C.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a replacement dwelling with side yard setbacks of 10 feet and 20 feet total side yard setback in lieu of the 10 feet and 25 feet required on a lot with a width of 50 feet in lieu of the required 70 feet¹, and from Section 400.3 of the B.C.Z.R. to permit an accessory structure (detached garage) with a height of 25 feet in lieu of the permitted 15 feet. The subject property and requested relief are more fully described on the site plan submitted which was marked and accepted into evidence as Petitioner's Exhibit 1.

Appearing at the requisite public hearing in support of the request were Craig Dranbauer, owner of the property, and Patrick (Rick) Richardson, P.E. with Richardson Engineering, LLC, the professional engineering firm that prepared the site plan for this property. There were no

¹ The subject property is a water-oriented lot with 50 feet of frontage at the stone bulkhead abutting on Middle River and a width of 51 feet on Middle River Avenue. The applicable development standards for small lots set forth in the Chart found in Section 1B02.3.C.1, in addition to area and yard setbacks, require a lot width of 70 feet in the D.R.3.5 zone. Perhaps the Zoning Review Office preferred a public hearing rather than place its reliance upon B.C.Z.R. Section 304.1 (undersized single-family lots). The subject property, Lot 69 in the subdivision of Long Beach Estates, has been a lot of record since 1919, meets all height and area requirements and Mr. Dranbauer does not own sufficient adjoining land to conform to the width requirements. The property and improvements have been in the Petitioner's family since 1953.

Protestants nor were there any adverse comments from any of the County's reviewing agencies.

Testimony and evidence offered disclosed that the subject property is a rectangular shaped parcel located on the south side of Middle River Avenue just west of Chesapeake Avenue in the Bowleys Quarters area of eastern Baltimore County. As noted, the property is also known as Lot 69 in the subdivision of Long Beach Estates, an older subdivision which was recorded in the Land Records of Baltimore County some 91 years ago, well prior to the effective date of the zoning regulations. As is often the case with older subdivisions, many of the lots do not meet current width requirements. In this regard, the subject property is 50 feet wide and 331 feet deep and cannot meet current lot width requirements, however, is served by public water and sewer.

The property contains a gross area of 17,509 square feet or 0.40 acres, more or less, zoned D.R.3.5 and is presently improved with a two-story, single-family dwelling with a basement built in 1929, a 200' wooden pier, and a 20' x 26' detached garage. The property was acquired by the Petitioner's grandfather in 1953 and has been used as the family's summer home ever since. Following the death of his parents in 2002, Mr. Dranbauer purchased the property. He states the home, which is very old, needs replacement. Its current size is 25' wide x 60' deep and is positioned as close as 9 feet from the east side property line. The proposed three-story dwelling will be built in the existing footprint but will be realigned on the lot so as to allow 10 foot setbacks (east and west sides). The new home will be 30' wide x 60' deep with a front porch. Additionally, the new building will be located approximately 66 feet from the bulkhead, consistent with the existing location. This is significant in that the new house will not block the view of the water from adjacent properties. Mr. Richardson points to B.C.Z.R. Section 4A03.4B.1 and 3 that would allow a building permit to be issued for the construction of a dwelling on this undersized lot.

Turning next to Petitioner's desire to refurbish the existing detached garage and increase its height to 25 feet, I will also grant this request and find that it complies with the spirit and intent of these regulations. In this regard, Mr. Dranbauer stated that he wants additional storage space to accommodate his boating equipment. The increased height will allow full access to a second floor above the garage for storage of this equipment and other personal property as the next home will have no basement. Section 400.3 of the B.C.Z.R. limits the height of accessory buildings to 15 feet. Mr. Dranbauer provided Petitioner's Exhibit 2B through 2D (Photographs) of other accessory structures in the immediate area that are over 15 feet in height. He believes that the garage would be aesthetically pleasing and in keeping with the characteristics of the neighborhood. As evidenced by the Zoning Advisory Committee (ZAC) comment received from the Department of Environmental Protection and Resource Management (DEPRM), the subject lot is located within a Limited Development Area (LDA) and Buffer Management Area (BMA) of the Chesapeake Bay Critical Area (CBCA). Raising the height of the garage to provide needed storage space is preferable to enlarging the structure's 20' x 26' impervious footprint or building additional accessory structures. DEPRM asks that lot coverage limits be minimized to reduce adverse impacts to water quality. Thus, I am persuaded that relief can be granted, subject to the restrictions set forth hereinafter.

In my judgment, the Petitioner has satisfied the requirements of Section 307 of the B.C.Z.R. and *Cromwell v. Ward*, 102 Md. App. 691 (1995). The variance in this case is driven by the configuration and size of the lot. Moreover, this property is served by public water and public sewer, which has been made available in the area. Strict compliance with the regulations would cause a practical difficulty upon the Petitioner in that a reasonable use of the land would not be permitted. Thus, I find that relief can be granted without detrimental impact to adjacent

properties. The neighbors are not opposed to the proposal and it is noted that many of the other houses in the community are built on similarly sized lots with accessory structures in excess of 15 feet. However, in granting the relief, I will impose conditions and remind Petitioner that he needs to comply with the CBCA regulations enforced by the Department of Environmental Protection and Resource Management (DEPRM) and with Federal flood insurance requirements mandated in the CBCA.

Pursuant to the advertisement, posting of the property and public hearing on this Petition 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 10th day of November 2010 that the Petition for Variance seeking relief from Section 1B02.3.C.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a replacement dwelling on a lot with a width of 50 feet and a sum of side yards of 20 feet in lieu of the required 70 feet and 25 feet respectively, and from Section 400.3 of the B.C.Z.R. to permit an accessory structure (detached garage) with a height of 25 feet in lieu of the permitted 15 feet, in accordance with Petitioner's Exhibit 1, be and the same is hereby GRANTED; subject to the following restrictions:

1. The Petitioner may apply for his building permit and be granted same upon receipt of this Order; however, the Petitioner is hereby made aware that proceeding at this time is at his own risk until the thirty (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. Compliance with the Zoning Advisory Committee (ZAC) comments submitted by DEPRM and the Development Plans Review Division of the Department of Permits and Development Management (DPDM) relative to the Chesapeake Bay Critical Area (CBCA) regulations and all other appropriate environmental, floodplain and BOCA regulations relative to the protection and water quality, streams, wetlands and floodplains. Copies of these comments, dated October 25, 2010 and

October 5, 2010, respectively, have been attached hereto and made a part hereof.

3. The proposed garage with storage space for boating equipment 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, their heirs and assigns shall not allow or cause the structure 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.

Any appeal of this decision must be taken in accordance with Section 32-3-401 of the Baltimore County Code (B.C.C.).

WJW:dlw

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