

IN RE: PETITION FOR VARIANCE	*	BEFORE THE
N side of Manchester Rd, 545 feet		
E of Beverly Road	*	DEPUTY ZONING
12 th Election District		
7 th Councilmanic District	*	COMMISSIONER
(7326 Manchester Road)		
	*	FOR BALTIMORE COUNTY
Christopher Barr, Jr. and Mary Ann Barr	*	CASE NO. 2011-0162-A
<i>Petitioners</i>		

* * * * *

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, Christopher Barr Jr. and Mary Ann Barr. Petitioners are requesting Variance relief from Section 400.3 of the Baltimore County Zoning Regulations (“B.C.Z.R.”) to permit the height of a proposed garage to be a maximum of 20 feet in lieu of the permitted 15 feet. The subject property and requested relief are more fully described on the site plan that was marked and accepted into evidence as Petitioners’ Exhibit 1.

Appearing at the requisite public hearing in support of the variance request were Petitioners Christopher Barr, Jr. and Mary Ann Barr, and David H. Karceski, Esquire, attorney for Petitioners. Also appearing was a family friend, Ed Crizer. Mr. Crizer expressed support for Petitioners’ proposal and variance relief, but did not otherwise participate in the hearing. There were no Protestants or other interested persons in attendance.

Testimony and evidence offered revealed that the subject property is rectangular shaped and contains approximately 5,580 square feet, more or less, zoned D.R.5.5. The property is located on the north side of Manchester Road, west of Merritt Boulevard and north of German Hill Road, in the Eastpoint area of southeastern Baltimore County. The property is improved with an existing 1½-story single-family dwelling with an enclosed front porch. There is also an existing gravel driveway and parking area as shown on the site plan. As indicated in the SDAT Real Property Data

Search, Petitioners have owned the property since 1995 and reside in the home that was constructed as part of the “Beverly Farms” subdivision in 1914. At this juncture, Petitioners desire to construct a garage accessory structure in the rear yard as shown on the site plan, measuring approximately 28 feet wide by 34 feet deep with a maximum height of 20 feet. Petitioners also plan to replace the existing gravel driveway with a proposed concrete driveway that would extend to the garage.

In support of the variance relief, Petitioners’ attorney, Mr. Karceski, submitted an aerial photograph that was marked and accepted into evidence as Petitioners’ Exhibit 2. This exhibit depicts the location of the subject property as well as nearby properties and uses. Mr. Karceski pointed out several unusual features that surround the subject site and render it unique in a zoning sense. First, he noted that the property is the only one that is directly across the street from a rather large, 2 acre property that is home to the Calvary Baptist Church. The church property is shown in a photograph that was marked and accepted into evidence as Petitioners’ Exhibit 3A. In addition, the property has a significant stand of trees to the rear, and an even larger forested area beyond the property to the north.

Mr. Karceski also submitted photographs that were marked and accepted into evidence as Petitioners’ Exhibits 4A through 4C. These photographs show the front view of Petitioners’ dwelling (4A), their neighbor the left (4B), and their neighbor to the right (4C). Mr. Karceski also noted that the neighbor to the left at 7326 Manchester Road has an existing garage located in the rear yard that appears to be two stories -- very similar in location, size, and height to that which is proposed by Petitioners. Also submitted was an elevation drawing of the proposed garage, which was marked and accepted into evidence as Petitioners’ Exhibit 5. This rendering shows a two car garage with a second floor loft that would be used only for storage of personal and household items. According to Petitioners, it is not intended, nor would it be used, for living quarters or for any commercial use. In addition, siding would be similar to the existing home’s exterior.

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 December 6, 2010 which recommends that the accessory structure not be converted into a dwelling unit or apartment, not contain any sleeping quarters, living area, kitchen or bathroom facilities, and not be used for commercial purposes. Petitioners indicated they would comply with this recommendation.

Based upon the testimony and evidence presented, I am persuaded to grant the request for 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. Petitioners' property is the only property that sits directly across from a much larger church property, and has a significant stand of trees to the rear. I also find that strict compliance with the B.C.Z.R. would result in practical difficulty or unreasonable hardship upon Petitioner. If the relief were not granted, Petitioners would be unable to store their valuables in a secure place. Petitioners would also be compelled to construct another accessory structure on the property to provide enough storage, which could crowd the property and would not be as environmentally preferable, in terms of impervious surface coverage.

Finally, I find that the variance can be granted in harmony with the spirit and intent of the B.C.Z.R., and in such manner as to grant relief without injury to the public health, safety, and general welfare. In my view, the natural screening to the rear of the property and the location directly across the street from an existing church will result in a very minimal impact to nearby properties and the neighborhood as a whole.

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 22nd day of December, 2010 by this Deputy Zoning Commissioner that Petitioners' Variance request from Section 400.3 of the Baltimore County

Zoning Regulations (“B.C.Z.R.”) to permit the height of a proposed garage to be a maximum of 20 feet in lieu of the permitted 15 feet be is hereby **GRANTED**, subject to the following:

1. Petitioners may apply for 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. The Petitioners or subsequent owners shall not convert the subject accessory structure into a dwelling unit or apartment. The structure shall not contain any sleeping quarters, living area, bathroom, or kitchen facilities.
3. The accessory structure shall not be used for commercial purposes.
4. Petitioners indicated during the hearing that, following the construction of the garage, they intend to replace the existing asbestos shingles on the home. A further condition of the relief granted is that if/when Petitioners remove the asbestos shingles, they shall replace the shingles with siding, fascia, and trim materials that are the same or similar to that of the garage so that the structures match or are complementary to one another. An example would be the neighbors’ home and garage at 7322 Manchester Road shown in Petitioners’ Exhibit 4B.

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