

<b>IN RE: PETITION FOR SPECIAL HEARING</b>	*	BEFORE THE
<b>AND VARIANCE</b>		
E/ side of Vesper Avenue, 375' of	*	OFFICE OF ADMINISTRATIVE
Wenig Avenue		
12 <sup>th</sup> Election District	*	HEARINGS FOR
6 <sup>th</sup> Councilmanic District		
<b>(1407 Vesper Avenue)</b>	*	BALTIMORE COUNTY
Shawn and Theresa Durkin	*	
<i>Petitioners</i>		<b>CASE NO. 2011-0357-SPHA</b>

\* \* \* \* \*

**OPINION AND ORDER**

This matter comes before this Administrative Law Judge for consideration of a Petition for Special Hearing filed by Shawn and Theresa Durkin, legal owners of the subject property. The Petition for Special Hearing was filed in accordance with Section 500.7 of the Baltimore County Zoning Regulations (“B.C.Z.R.”) to permit an accessory building (garage) with a building footprint (1,064 sq. ft.) that is larger than the principal use dwelling footprint (980 sq. ft.). In addition, Variance relief is being requested from Section 400.3 of the B.C.Z.R. to permit an accessory building (garage) with a height of 24 feet in lieu of the maximum allowed 15 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 on this Petition was Shawn Durkin, legal owner of the subject property. The file reveals that the Petition was properly advertised and the site was properly posted as required by the Baltimore County Zoning Regulations. There were no Protestants or other persons present.

The Zoning Advisory Committee (ZAC) comments were made a part of the record of this case. There were no adverse ZAC comments received from any of the County reviewing agencies.

Testimony and evidence presented demonstrated that Mr. Durkin is a member of the Air National Guard and has served two tours of duty in the Middle East. While away serving his country, his family (wife and three children) have experienced thefts from their property of items from their backyard. Mr. Durkin wishes to construct this garage to house his vehicles and personal items, and to provide much needed storage space for his family.

I find that the special hearing relief should be granted as the approval of this request will not adversely impact overall density of the neighborhood.

As to 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. I also find that strict compliance with the B.C.Z.R. would result in practical difficulty or unreasonable hardship upon Petitioners.

I further find that the variance can be granted in strict harmony with the spirit and intent of said regulations, and in such a manner as to grant relief without injury to the public health, safety, and general welfare. Thus, I find that the variance can be granted in such a manner as to meet the requirements of Section 307 of the B.C.Z.R, as established in *Cromwell v. Ward*, 102 Md. App. 691 (1995).

Pursuant to the advertisement, posting of the subject property and public hearing on this Petition held, and after considering the testimony and evidence offered by the Petitioners, I find that the Petitioners' special hearing requests should be granted.

THEREFORE, IT IS ORDERED by the Administrative Law Judge for Baltimore County, this   21   day of July, 2011, that the Petitioners' request for Special Hearing relief, filed pursuant to Section 500.7 of the Baltimore County Zoning Regulations ("B.C.Z.R."), to permit an accessory building (garage) with a building footprint (1,064 sq. ft.) that is larger than the principal use dwelling footprint (980 sq. ft.), be and is hereby GRANTED.

IT IS FURTHER ORDERED that the Variance request pursuant to Section 400.3 of the B.C.Z.R. to permit an accessory building (garage) with a height of 24 feet in lieu of the maximum allowed 15 feet, be and is hereby GRANTED, subject to the following:

1. Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the thirty (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.

Any appeal of this decision must be made within thirty (30) days of the date of this Order.

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Signed \_\_\_\_\_  
TIMOTHY M. KOTROCO  
Administrative Law Judge  
for Baltimore County

TMK/pz