

<b>IN RE: PETITION FOR ADMIN. VARIANCE</b>	*	BEFORE THE
SE Corner of E Ridgely Road and		
Lynncrest Road	*	OFFICE OF ADMINISTRATIVE
<b>(1727 Lynncrest Road)</b>		
8 <sup>th</sup> Election District	*	HEARINGS FOR
3 <sup>rd</sup> Council District		
	*	BALTIMORE COUNTY
William M. Smith, 3 <sup>rd</sup> and Ann L. Bowen		
<i>Petitioners</i>	*	<b>CASE NO. 2012-0041-A</b>

\* \* \* \* \*

**ORDER AND OPINION**

This matter comes before the Office of Administrative Hearings (OAH) as a Petition for Administrative Variance filed by the legal owners of the property, William M. Smith, 3<sup>rd</sup> and Ann L. Bowen. The Petitioners are requesting Variance relief pursuant to Section 400 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit an accessory structure (detached garage) to be located in the side yard in lieu of the required rear yard and third of the lot farthest removed from any street. The subject property and requested relief is more fully depicted on the site plan that was marked and accepted into evidence as Petitioners' Exhibit 1.

This matter was originally filed as an Administrative Variance, with a closing date of September 5, 2011. On September 2, 2011, William R. Levasseur, Covenants Chair of Dulaney Forest Community Association, requested a formal hearing on this matter. The hearing was subsequently scheduled for Thursday, September 29, 2011 at 10:00 AM; however, the property was not posted with a sign and was rescheduled for Monday, November 7, 2011 at 1:30 PM in Room 205 of the Jefferson Building, 105 West Chesapeake Avenue, Towson. In addition, a sign was posted at the property and an advertisement was published in *The Jeffersonian* newspaper, giving neighbors and interested citizens notice of the hearing.

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

Appearing at the public hearing held for this case was Petitioner William Smith, 3<sup>rd</sup>. Appearing in opposition to the request was William R. Levasseur, Covenants Chair of Dulaney Forest Community Association, who resides at 1917 Knollton Road.

Testimony and evidence revealed that the subject property is 20,604 square feet and is zoned D.R.2. The property is located in the Lutherville-Timonium area of the County, and is improved with a single family dwelling approximately 1,500 square feet in size.

The Petitioner presented photographs of his home and the adjoining residence at 1725 Lynncrest Road which depict the topography and site conditions in the area where the garage is planned. (Exhibit 5). Mr. Levasseur indicated the community opposed the garage being constructed on the side of the home, and he indicated that he is unaware of any other homes in the neighborhood which have free-standing garages in the side yard. At the same time, Mr. Levasseur and the community association were cooperative and at the hearing a resolution was proposed that satisfied the community and may very well obviate the need for variance relief.

Specifically, Petitioner agreed to relocate his garage such that the northwest corner of the proposed structure would connect to the southeast corner of the existing dwelling, as shown on Exhibit 4. In the event the structures are actually attached, a variance would not be required per B.C.Z.R. § 400.1. Alternatively, if site conditions did not allow for such a connection, the newly proposed location would position the garage in the third of the lot farthest from any street, which would also satisfy B.C.Z.R. § 400.1. In an abundance of caution, I will nonetheless grant the

Petitioner's variance relief to expressly allow for the construction of a 24'x32' garage in the location shown (in blue ink revisions) on Exhibit 4.

Pursuant to the advertisement, posting of the property, and public hearing on this petition, and after considering the testimony and evidence offered by Petitioner, I find that Petitioners' variance request (to the extent such relief is necessary) should be granted.

THEREFORE, IT IS ORDERED, this 16 day of November, 2011 by the Administrative Law Judge for Baltimore County, that the Petition for Variance seeking relief from Section 400 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit an accessory structure (detached garage) to be located adjacent to the southeast corner of the existing dwelling (as reflected on Exhibit 4), be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

1. 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, 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.

Signed \_\_\_\_\_  
JOHN E. BEVERUNGEN  
Administrative Law Judge for  
Baltimore County

JEB:pz