

<b>IN RE: PETITIONS FOR SPECIAL HEARING</b>	*	BEFORE THE
<b>AND VARIANCE</b>		
N side of Wiseburg Road, 2,650' W of the	*	OFFICE OF ADMINISTRATIVE
c/line of Bernoudy Road		
<b>(1106 Wiseburg Road)</b>	*	HEARINGS FOR
7 <sup>th</sup> Election District		
3 <sup>rd</sup> Council District	*	BALTIMORE COUNTY
Dustin Ellwood		
<i>Petitioner</i>	*	<b>CASE NO. 2012-0073-SPHA</b>

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**OPINION AND ORDER**

This matter comes before the Office of Administrative Hearings for Baltimore County for consideration of Petitions for Special Hearing and Variance filed by the legal owner of the property, Dustin Ellwood. The Petitioner is requesting Special Hearing relief pursuant to Section 500.7 of the Baltimore County Zoning Regulations (“B.C.Z.R.”) to permit an existing garage less than 15 feet in height as an accessory structure on a lot with no principal structure until such time as the principal structure is erected. Variance relief is also being sought from Section 400.1 of the B.C.Z.R. to permit an existing garage less than 15 feet in height as an accessory structure in the front yard of a residentially zoned lot to be improved with a principal structure. The subject property and requested relief is more fully depicted on the site plan that was marked and accepted into evidence as Petitioner’s Exhibit 1.

Appearing at the public hearing held for this case was Petitioner Dustin Ellwood. A review of 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 interested persons in attendance at the hearing, and the file does not contain any letters of protest or opposition.

Testimony and evidence revealed that the subject property is 3.094 acres and is zoned RC4. The Petitioner's lot was originally part of a much larger parcel owned by his parents, and Mr. Ellwood said he was born and raised on the premises. The lot has an existing garage that is in good condition, and is used for storage of lawn equipment, tractors and related items. Petitioner indicated he wants to retain the garage on the lot, and is hoping to construct a two story dwelling on the northern portion of the site. Petitioner advised that he has a cordial relationship with all of his neighbors, and that they are supportive of his requests.

The Zoning Advisory Committee (ZAC) comments were received and are made a part of the record of this case. Comments were received from the Department of Environmental Protection and Sustainability (DEPS) dated September 27, 2011, which indicate that any future (new) building permits on this site will require review by Groundwater Management.

After considering the testimony and exhibits, and in light of the absence of any citizen or neighborhood opposition, I am persuaded to grant the requested special hearing relief. The garage is in good condition, and it would be wasteful to raze the structure. The garage has been in its present location for years, and allowing it to remain -- even though the dwelling is not yet erected -- makes sense.

Considering all of the testimony and evidence presented, I am also persuaded to grant the requested 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 further find that the granting of the relief as set forth herein can be accomplished without injury to the public health, safety, and general welfare. Therefore, in all manner and form, I find that the variance can be granted in accordance with the requirements of Section 307 of the B.C.Z.R. as articulated in *Cromwell v. Ward*, 102 Md. App. 691 (1995).

Pursuant to the advertisement, posting of the property and public hearing on this Petition and for the reasons set forth above, the relief requested shall be granted.

THEREFORE, IT IS ORDERED, this \_\_\_\_**10**\_\_\_\_ day of November, 2011 by the Administrative Law Judge for Baltimore County, that the Petition for Special Hearing seeking relief under Section 500.7 of the Baltimore County Zoning Regulations (“B.C.Z.R.”) to permit an existing garage less than 15 feet in height as an accessory structure on a lot with no principal structure until such time as the principal structure is erected, be and is hereby granted.

IT IS FURTHER ORDERED that the Petition for Variance seeking relief under Section 400.1 of the B.C.Z.R. to permit an existing garage less than 15 feet in height as an accessory structure in the front yard of a residentially zoned lot to be improved with a principal structure, be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

1. The Petitioner may apply for his building permit and may 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 such time as the thirty (30) day appellate process from this Order has expired. If for whatever reason, this Order is reversed, the Petitioner will be required to return and be responsible for returning said property to its original condition.
2. Petitioner must comply with the ZAC comments received from the Department of Environmental Protection and Sustainability (DEPS) dated September 27, 2011; a copy of which is attached hereto and made a part hereof.

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

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Signed  
JOHN E. BEVERUNGEN  
Administrative Law Judge for  
Baltimore County

JEB:pz