

IN RE: PETITION FOR ADMIN. VARIANCE

NE side of Yardley Drive, 8' SE
of Cornwall Road
12th Election District
7th Councilmanic District
(3435 Yardley Drive)

Brent H. and Terry L. Fendlay
Petitioners

* BEFORE THE
* OFFICE OF
* ADMINISTRATIVE HEARINGS
* FOR BALTIMORE COUNTY
* **Case No. 2012-0074-A**

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OPINION AND ORDER

This matter comes before the Office of Administrative Hearings as a Petition for Administrative Variance filed by the legal owners of the subject property, Brent H. and Terry L. Fendlay for property located at 3435 Yardley Drive. The variance request is from Section 400.1 of the Baltimore County Zoning Regulations (“B.C.Z.R.”) to permit a proposed accessory structure (detached carport) to be located in the front yard in lieu of the required rear yard only. The subject property and requested relief are more particularly described on Petitioners’ Exhibit 1.

Appearing at the requisite public hearing in support of the variance request was the Petitioner, Brent H. Fendlay. The file reveals that the Petition was properly advertised and the site was properly posted as required by the Baltimore County Zoning Regulations (B.C.Z.R.).

This matter was originally filed as an Administrative Variance, with a closing date of October 10, 2011. On October 14, 2011, the undersigned Administrative Law Judge called for a formal hearing on this matter. The hearing was subsequently scheduled for Wednesday, November 16, 2011 at 11:00 AM, 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. The comments indicate no opposition or other recommendations concerning the requested relief.

Testimony and evidence offered revealed that the property which is the subject of this request, consists of 5,000 square feet and is zoned DR 3.5. The owner of the property desires to erect a carport over his front driveway for the purpose of protecting his new car from the elements. There is no room to locate the structure on the side or rear of his property, given the uniqueness of the property.

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

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.

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 Petitioner's variance request should be granted.

THEREFORE, IT IS ORDERED, by the Administrative Law Judge for Baltimore County, this 18 day of November, 2011 that a variance from Section 400.1 of the Baltimore County Zoning Regulations ("B.C.Z.R.") to permit a proposed accessory structure (detached carport) to be located in the front yard in lieu of the required rear yard only, be and is hereby GRANTED, subject to the following:

1. The 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, 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.

Signed
TIMOTHY M. KOTROCO
Administrative Law Judge
for Baltimore County

TMK/sma