

<b>IN RE: PETITIONS FOR SPECIAL HEARING</b>	*	BEFORE THE
<b>AND VARIANCE</b>		
NE side of Gunpowder Road; 530 feet	*	OFFICE OF
NE of the c/line of Jerome Avenue		
11 <sup>th</sup> Election District	*	ADMINISTRATIVE HEARINGS
5 <sup>th</sup> Council District		
<b>(5661 Gunpowder Road)</b>	*	FOR BALTIMORE COUNTY
Kimberly Fretwell and William Meckley	*	<b>CASE NO. 2012-0176-SPHA</b>
<i>Petitioners</i>		

\* \* \* \* \*

**ORDER AND OPINION**

This matter comes to the Office of Administrative Hearings (OAH) as Petitions for Special Hearing and Variance filed by the legal owners of the property, Kimberly Fretwell and William Meckley. The Petitioners are requesting Special Hearing relief pursuant to Section 500.7 of the Baltimore County Zoning Regulations (“B.C.Z.R.”) to permit an accessory structure (garage) larger than the footprint of the dwelling. Petitioners are also requesting Variance relief from Section 400.3 of the B.C.Z.R. to permit an accessory structure (garage) with a height of 23 feet in lieu of the maximum permitted 15 feet.

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.

Appearing at the public hearing held for this case was Petitioner William Meckley. There were no Protestants or other persons present, and the file does not contain any letters of opposition or protest.

The Zoning Advisory Committee (ZAC) comments were received and are made part of the record of this case. The only substantive comment was from the Department of Planning, which expressed concern over the proposed size of the garage.

Testimony and evidence revealed that the subject property is located in the Darryl Gardens subdivision, off of Philadelphia Road. The Petitioners' lot is about 2/3 acre in size, and is improved with a bungalow style dwelling. Mr. Meckley testified that he wanted to construct the garage to store his recreational vehicle (which is 50 feet in length) and four (4) historic vehicles that he has restored.

As to the variance request, I am persuaded to grant the requested 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).

Furthermore, I find that the Special Hearing relief should be granted as well. Petitioner indicated many of his neighbors have large garages, and many are over 21 feet tall at the peak. Petitioner indicated that his home has two sides below grade, and two sides above grade. The proposed garage would be positioned behind the elevated portion of the existing dwelling, and for that reason the proposed height of the garage would not appear excessive. Petitioner, like many people, has vehicles and hobbies that demand a large amount of space, and it is not uncommon to see utility and accessory buildings that are larger than the dwellings near which they are located. In addition, Petitioner spoke with several of his neighbors and none voiced concern or opposition to his proposal.

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

THEREFORE, IT IS ORDERED, this 1<sup>st</sup> day of March, 2012 by the Administrative Law Judge for Baltimore County, that the Petition for Special Hearing filed pursuant to Section 500.7 of the Baltimore County Zoning Regulations (“B.C.Z.R.”) to permit an accessory structure (garage) larger than the footprint of the dwelling, be and is hereby GRANTED;

IT IS FURTHER ORDERED that the Petition for Variance under Section 400.3 of the B.C.Z.R. to permit an accessory structure (garage) with a height of 23 feet in lieu of the maximum permitted 15 feet, be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

1. The Petitioners may apply for their building permit and may be granted same upon receipt of this Order, however the 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 will be required to return and be responsible for returning said property to its original condition.

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Signed  
JOHN E. BEVERUNGEN  
Administrative Law Judge for  
Baltimore County

JEB:dlw