

IN RE: PETITIONS FOR SPECIAL HEARING	*	BEFORE THE
AND VARIANCE		
E/side of Lorraine Avenue, 275' of the	*	OFFICE OF
c/line of Cedar Road		
(411 Lorraine Avenue)	*	ADMINISTRATIVE HEARINGS
15 th Election District		
7 th Council District	*	FOR BALTIMORE COUNTY
Patrick M. and Jamie L. Riley	*	CASE NO. 2012-0301-SPHA
Petitioners		

* * * * *

ORDER AND OPINION

This matter comes before the Office of Administrative Hearings (OAH) as Petitions for Special Hearing and Variance filed by the legal owners of the property, Patrick M. and Jamie L. Riley. The Petitioners are requesting Special Hearing relief pursuant to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.), to permit a 1,200 square foot accessory building (garage) which is larger than the 1,065 square foot principal structure (dwelling). The Petitioners are also seeking variance relief from Section 400.3 of the B.C.Z.R. to permit an accessory building (garage) with a height of 18' in lieu of the permitted 15'. 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 were Patrick M. and Jamie L. Riley, property owners, and David Billingsley with Central Drafting and Design, Inc., who prepared the site plan and is assisting the Petitioners through the permitting process. There were no Protestants or other interested persons in attendance. The file reveals that the Petition was properly advertised and the site was properly posted as required by the Baltimore County Zoning Regulations.

The Zoning Advisory Committee (ZAC) comments were received and made a part of the file. A ZAC comment was received from the Department of Planning on June 22, 2012, which

indicated the following:

The Department of Planning has reviewed the petitioner's request and accompanying site plan. This department does not oppose the petitioner's request provided the existing deteriorated accessory structures are razed. All automobiles, trailers and other items that are currently housed in the existing structures and in the rear yard shall be stored in the proposed garage. The improvement of the new accessory building would be an overall visual improvement to the existing conditions in the rear yard of the subject property.

The size and scale of the proposed building from the information provided appears to be out of character for the community, however there are a few properties with multiple accessory structures in the rear yard. Nonetheless, provide building elevations to this department for review and approval, the exterior finish materials of the building should be consistent and compliment that of the principle dwelling. As proposed on the petition, the garage is 18 feet in height. A two-storey structure will not be supported. The additional height proposed should be for roof pitch purposes only.

In an email dated July 19, 2012, the Department of Planning (Curtis Murray) stated that they had the opportunity to review the photos and supporting documents provided by David Billingsley, and that the proposed one-story garage would present a far better condition on the subject site than what currently exists. Therefore, Planning does not oppose the request, subject to the other conditions in their original ZAC comment.

In addition, a ZAC comment was received from the Department of Environmental Protection and Sustainability (DEPS), dated July 16, 2012, indicating that Petitioners were obliged to comply with certain Critical Area regulations, as set forth in B.C.Z.R. § 500.14.

Testimony and evidence revealed that the subject property is 0.16 acres (7,000 square feet) and is zoned DR 5.5. The site is improved with a modest brick home which is 1,065 square feet in size. The home is similar to others in the community, all of which are located on 50' wide lots, as shown on the Plat of Essex, Section E, dated Oct. 1919. Petitioners would like to construct a 1,200 square feet pole building to house their many vehicles, including antique cars, motorcycles and jet skis. The Petitioners will raze the existing sheds and garages located in the rear yard.

With regard to the special hearing relief, it does not appear as if the proposed garage would be detrimental to the community in any way. The Petitioners have chosen a reputable firm to supply the building, and they will use a color scheme that will match the existing dwelling. See Exhibits 8 and 9. Though the garage will be slightly larger than the dwelling (by 135 square feet), which necessitates special hearing relief, both structures are modest in size and scale and will not be out of keeping with the neighborhood, where many other owners have accessory structures in their rear yards.

Based on the evidence presented, I also 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). I find special circumstances or conditions exist that are peculiar to the land or structure which is the subject of the variance request. Petitioners are constrained by existing site conditions, and the height variance will allow for a more attractive pitched roof.

I also find that strict compliance with the B.C.Z.R. would result in practical difficulty or unreasonable hardship, given that Petitioners would be unable to construct the garage as planned. 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. This is demonstrated by the support of the Department of Planning and the lack of community opposition.

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

THEREFORE, IT IS ORDERED, this 24 day of July, 2012 by the Administrative Law Judge for Baltimore County, that the Petition for Special Hearing seeking relief pursuant to

Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.), to permit a 1,200 square foot accessory building (garage) which is larger than the 1,065 square foot principal structure (dwelling), be and is hereby GRANTED.

IT IS FURTHER ORDERED that the requested variance relief from Section 400.3 of the B.C.Z.R. to permit an accessory building (garage) with a height of 18' in lieu of the permitted 15', be and is hereby GRANTED.

The relief granted herein shall be conditioned upon and subject to the following:

1. The Petitioners may apply for any required permits 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.
2. The Petitioner or subsequent owners shall not convert the subject accessory structure into a dwelling unit or apartment. The structure shall not contain any sleeping quarters, living area, kitchen or bathroom facilities.
3. The accessory structure shall not be used for commercial purposes.

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