



Appearing at the public hearing in support for this case was Henry and Pamela Knott, Theresa Amos, and Mitchell J. Kellman with Daft McCune Walker, Inc. Howard L. Alderman, Jr., Esquire with Levin & Gann, P.A., appeared and represented the Petitioners. Also in attendance were Mr. and Mrs. Joseph K. Fox, Nick Griffin, Edward and Shaun Latchford, and Peggy Squitieri.

Testimony and evidence revealed that the subject property is 27,442 square feet and is zoned DR 1. Mr. and Mrs. Knott purchased the property in 2004, and indicated they always planned for adding a two-car garage. Mr. Knott testified that the proposed front yard location was the “only practical spot” to locate the garage.

The Petitioners presented testimony from Mitchell Kellman, who was accepted as an expert in the B.C.Z.R. and zoning issues generally. Mr. Kellman testified the property was of a very irregular shape, and had a topographical change on both the east and west sides of the lot. Mr. Kellman opined that it would be a hardship and difficult (but not impossible) for Petitioners to locate the garage on the east side of their lot (which is on the left side as one enters the driveway) facing Rolandvue Drive, because the topographical grade change would require excavation and the use of retaining walls.

Several neighbors attended the hearing and opposed the variance. While each witness mentioned various issues, the common theme was that the proposed garage was not appropriate for the front yard and would be an aesthetically unpleasing structure (Mr. Griffin described the proposed building as a “pop up, prefab, do-it-yourself structure out of a catalog”) that would diminish the value of nearby homes, many of which are valued in excess of \$1M. The witnesses explained also that with rare exception, the garages in the Ruxton area are either attached to the dwelling or located in the rear yard.

Based upon the testimony and evidence presented, I will deny the request for variance relief. While the property may be unique (given its shape and topographical changes), I do not believe that uniqueness causes the zoning regulation (here, B.C.Z.R. § 400.1) to impact disproportionately the Petitioners' property. While there is a grade change in that area of the property east of the blacktop driveway, it is not so severe a change as to preclude the construction of the garage in that vicinity. In photographs submitted by the Protestants, it would certainly appear as if a garage could be situated in this area. See Protestants Exhibits 2 and 3. In addition, the private drive by which these homes are accessed is tree lined and bucolic in appearance (See Protestants Exhibit 6), and the construction of a garage just 4' from that drive would "affect the aesthetic ambience of ... the properties which lie in the immediate area." Daihl v. Balto. County, 258 Md. 157, 167 (1970).

As such, I do not believe the grant of variance relief would be in "strict harmony with the spirit and intent" of the regulations. B.C.Z.R. § 307.1. I think this is especially the case here, where the Petitioners have another alternative available to locate the garage that would not require variance relief. Montgomery Co. v. Rotwein, 169 Md. App. 716 (2006). Though I regret that I am unable to grant the Petitioners' petition, I would at the same time note that the Ruxton neighborhood is so attractive and desirable because (in part at least) the community is so diligent in ensuring the zoning laws are enforced. The Petitioners own a beautiful home in a picturesque setting, and zoning and development proposals are often met with skepticism and resistance in such a setting.

Pursuant to the advertisement, posting of the property, and public hearing on this petition, and after considering the testimony and evidence, I find that Petitioners' variance request should be denied.

THEREFORE, IT IS ORDERED, this 13<sup>th</sup> day of September, 2012 by the Administrative Law Judge for Baltimore County, that the Petition for Variance relief from § 400.1 of the Baltimore County Zoning Regulations (“B.C.Z.R.”), to permit a proposed detached accessory structure (garage) to be located on the front and side yard of the principal building, be and is hereby DENIED.

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

JEB:dlw

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