

IN RE: **PETITIONS FOR SPECIAL HEARING \***  
**AND VARIANCE**

15 <sup>th</sup> Election District	*	OFFICE OF
7 <sup>th</sup> Councilmanic District	*	ADMINISTRATIVE HEARINGS
(734 Essex Avenue)	*	
Allen D. and Deborah L. Nickels	*	FOR BALTIMORE COUNTY
<i>Petitioners</i>	*	
	*	<b>Case No. 2013-0049-SPHA</b>

\* \* \* \* \*

**OPINION AND ORDER**

This matter comes before the Office of Administrative Hearings (OAH) for consideration of Petitions for Special Hearing and Variance filed by Allen D. and Deborah L. Nickels, legal owners. The Special Hearing was filed pursuant to § 500.7 of the Baltimore County Zoning Regulations (“B.C.Z.R.”), to determine whether or not the Administrative Law Judge should approve an accessory building (garage) having a footprint of 2,400 square feet which is larger than the 1,200 square feet of the principal use (dwelling). In addition, a Petition for Variance was filed pursuant to § 400.3 of the B.C.Z.R., to permit an accessory building (garage) with a height of 19'-6" in lieu of the required 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 in support of the requests was Allen D. Nickels and David Billingsley with Central Drafting and Design, Inc., the firm that prepared the site plan and who is assisting the Petitioners through the permitting process. 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 in attendance, and the file does not contain any letters of protest or opposition.

The Zoning Advisory Committee (ZAC) comments were received and are made part of the record of this case. There were no adverse ZAC comments received from any of the County reviewing agencies.

The subject property is 30,918 square feet and is zoned DR 3.5. The property is improved with a small single-family dwelling (approximately 1,200 square feet) and a small (approximately 200 square feet) shed located at the rear of the lot. *See Photos, Exhibit 6f.* The Petitioner collects and restores motor vehicles, and also has a travel trailer (Exhibit 6i) that he keeps on site. He proposes to construct a pole barn (elevation drawings were provided, Exhibit 7) in the same location as the existing shed, which will be razed. The Petitioner indicated the height variance was sought to allow room for inside storage of the travel trailer, and the accessory building size (2,400 square feet) will accommodate the cars that Petitioner restores.

Based on the evidence presented, 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). I find special circumstances or conditions exist that are peculiar to the land or structure which is the subject of the variance request. Specifically, the site has no existing garage or carport (as do the neighboring lots) and the height variance will allow inside storage of Petitioners' vehicles, which will improve the appearance of the home. 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 able to construct a garage, but it would not be tall enough to permit inside storage of the recreational vehicle. 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 absence of opposition from the community and County reviewing agencies. In addition, and as

shown on the photos (Exhibits 5 and 6) the garage will be nestled among large and mature trees, that will provide a visual buffer for the adjacent homes.

The petition for special hearing does not require much discussion. The Petitioners' home is small (1,200 square feet) and very attractive and well maintained. The proposed garage (2,400 square feet) will be larger than the dwelling, but also of modest size and scale. The Petitioners' lot is approximately 2/3 acre, and the garage will in no way overcrowd the lot or be out of character for the neighborhood. As such, the petition for special hearing will be granted.

Pursuant to the advertisement, posting of the property, and public hearing, and after considering the testimony and evidence offered, I find that Petitioners' Special Hearing and Variance requests should be granted.

THEREFORE, IT IS ORDERED this 7<sup>th</sup> day of November, 2012, by this Administrative Law Judge, that Petitioners' request for Special Hearing filed pursuant to § 500.7 of the Baltimore County Zoning Regulations ("B.C.Z.R."), to approve an accessory building (garage) having a footprint of 2,400 square feet which is larger than the 1,200 square feet of the principal use (dwelling), be and is hereby GRANTED.

IT IS FURTHER ORDERED that Petitioners' Variance request from § 400.3 of the B.C.Z.R., to permit an accessory building (garage) with a height of 19'-6" in lieu of the required 15 feet, be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

1. Petitioners may apply for their appropriate permits 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, Petitioners would be required to return, and be responsible for returning, said property to its original condition.

2. The Petitioners or subsequent owners shall not convert the subject garage into a dwelling unit or apartment. The structure shall not contain any sleeping quarters, living area, kitchen or bathroom facilities.
3. The garage 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.

JEB/dlw

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Signed  
JOHN E. BEVERUNGEN  
Administrative Law Judge  
for Baltimore County