

IN RE: PETITION FOR SPECIAL HEARING (21043 York Road) 7 th Election District 3 rd Councilmanic District 21043 York Road, LLC Petitioner	* * * * * *	BEFORE THE OFFICE OF ADMINISTRATIVE HEARINGS FOR BALTIMORE COUNTY CASE NO. 2013-0060-SPH
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ORDER AND OPINION

This matter comes before the Office of Administrative Hearings (OAH) for Baltimore County as a Petition for Special Hearing filed by Clint Huhra, on behalf of 21043 York Road, LLC. The Petitioner is requesting Special Hearing relief pursuant to § 1A04.3.B.1.b(1) of the Baltimore County Zoning Regulations (B.C.Z.R.), to determine whether or not the Administrative Law Judge should approve a garage addition with a side setback of 25' in lieu of the required 50'. The subject property and requested relief is more fully depicted on the site plan that was marked and accepted into evidence as Petitioner's Exhibit 1.

Appearing at the public hearing held for this case was Clint Huhra. 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 made a part of the file. A ZAC comment was received from the Department of Environmental Protection and Sustainability (DEPS) on October 2, 2012, indicating a future building permit for a garage will need to be reviewed by Groundwater Management, since the property is served by well and septic.

Testimony and evidence revealed that the subject property is 1.95 acres and is zoned RC 5. The property is improved with a single-family dwelling, and the Petitioner intends to construct a garage to the west of the home, which will be connected to the principal dwelling by a covered breezeway. The site plan indicates that the garage at its southwest corner will be positioned 25' from the property boundary. Under the RC 5 regulations, any principal building (and the garage, since it is connected to the dwelling, is considered part of the principal building) must be positioned at least 50' from a lot line. B.C.Z.R. §1A04.3.B.2.b. Though it would ordinarily be variance relief granted in a scenario like this, the B.C.Z.R. provides that “special hearing” relief can be sought to alter the RC 5 setback requirements.

As such, the Petitioner does not need to satisfy B.C.Z.R. § 307 or the test set forth in Cromwell v. Ward for the granting of variance relief. Instead, the relief is available in this setting if the Petitioner demonstrates that the health, safety and welfare of the surrounding community will not be jeopardized. B.C.Z.R. § 600.1. In this case, there were no negative comments from County agencies or residents in the neighborhood. In addition, as shown on the site plan, the Petitioner’s home is situated over 300' +/- from the south and east property lines, and over 1,000' +/- from the north tract boundary. Though the garage addition would be 25' from the western property line, the lot adjoining is vacant, and in these circumstances I do not believe that the grant of relief would in any way negatively impact the neighborhood.

Pursuant to the advertisement, posting of the property, and public hearing, and after considering the testimony and evidence offered, I find that Petitioner’s Special Hearing request should be granted.

THEREFORE, IT IS ORDERED, this 19th day of November, 2012 by the Administrative Law Judge for Baltimore County, that the Petition for Special Hearing pursuant to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.), to approve a garage addition with a side setback of 25' in lieu of the required 50', be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

1. Petitioner may apply for appropriate permits and be granted same upon receipt of this Order; however, Petitioner is hereby made aware that proceeding at this time is at his own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, Petitioner would be required to return, and be responsible for returning, said property to its original condition.
2. Petitioner must comply with the ZAC comment received from DEPS dated October 2, 2012; a copy of which is attached hereto and made a part hereof.

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:dlw