

IN RE: PETITIONS FOR SPECIAL HEARING	*	BEFORE THE
AND VARIANCE		
(1615 Middleborough Road)	*	OFFICE OF
15 th Election District		
6 th Councilmanic District	*	ADMINISTRATIVE HEARINGS
Gordon M. and Linda M. Bosse	*	FOR BALTIMORE COUNTY
Petitioners	*	
	*	Case No. 2013-0079-SPHA

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) for consideration of Petitions for Special Hearing and Variance filed by Gordon M. and Linda M. Bosse, 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 1,920 sq. ft. which is larger than the dwelling. In addition, a Petition for Variance was filed from § 400.3 of the B.C.Z.R., to permit an accessory building (garage) with a height of 20’ 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 in support of the requests was Gordon M. Bosse 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 48,539 square feet (1.11 acres) and is zoned DR 3.5 and BL. The dwelling on the lot is extremely modest (896 sq. ft.), and the Petitioner indicated he hopes in the future to enlarge the house. At present, Petitioner wants to construct a garage in the rear of his large lot, and he will use the structure to store antique motor vehicles, tools, and related items.

With regard to the petition for special hearing, there is no indication that the grant of relief would negatively impact the community in any way. While the garage will be larger than the single-family dwelling, it will not be out of character for the neighborhood, and Petitioner indicated most of his neighbors have garages or outbuildings in their rear yards. Also, as seen on the photos (Exhibit 6A-K) the Petitioners' lot is large and very deep, and the attractive structure (*See Building Elevation, Exhibit 7*) will complement the rear yard.

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. Indeed, the lot is uniquely shaped, owing mainly to the fact that Baltimore County – through its condemnation powers – took a portion of Petitioners' lot, which created an irregular and curved property boundary fronting on Hilltop Avenue. 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 complete the project 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 absence of opposition from the community and County reviewing agencies.

Although the Office of Planning did not make any recommendations related to the garage height and usage, I will impose conditions that the accessory structure not be converted into a dwelling unit or apartment, not contain any sleeping quarters, living area, kitchen or bathroom facilities, and not be used for commercial purposes.

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 20th 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 1,920 sq. ft. which is larger than the existing 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 20' in lieu of the permitted 15', be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

1. Petitioners may apply for 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 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.

JEB/dlw

Signed

JOHN E. BEVERUNGEN
Administrative Law Judge
for Baltimore County