

0-IN RE: PETITIONS FOR SPECIAL HEARING *	BEFORE THE
AND VARIANCE	
15 th Election District *	OFFICE OF
6 th Councilman District *	ADMINISTRATIVE HEARINGS
(708 Grantwood Road)	
Billy B. Pennington *	FOR BALTIMORE COUNTY
Petitioner *	Case No. 2013-0095-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 Billy Pennington, legal owner. The Special Hearing was filed pursuant to § 500.7 of the Baltimore County Zoning Regulations (“B.C.Z.R.”), to allow an accessory structure larger than the principle structure. In addition, a Petition for Variance was filed pursuant to B.C.Z.R. §§400.1 and 400.3 to permit an addition to an existing detached accessory structure to be located on the third of the lot closest to the street in lieu of the required farthest removed and a height of 23 ft. in lieu of the maximum allowed 15 ft. 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 in support of the requests was Billy Pennington. The file reveals that the Petition was properly posted and advertised 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. The only substantive comment was received from the Department of Planning (DOP), which wanted to verify –prior to the issuance of any permits – that the design of

the proposed garage will be compatible with the existing dwelling. Mr. Pennington submitted elevation drawings of the structure (Exhibit 2), and indicated the exterior color of the building would be the same as/or similar to the color of the house. He also noted that several of his neighbors have similar garages, and he felt the structure and design was therefore compatible with his house and the immediate neighborhood.

The subject property is 26,250 square feet and is zoned DR 2. The site plan shows that the single family dwelling and existing garage (which will be expanded by the proposed garage addition) are situated on a rather large lot (approximately $\frac{3}{4}$ acre). Both of these structures are also set back from the adjoining roadways, and the site would not be overcrowded by the proposed garage addition.

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. Indeed, the Petitioner must contend with existing site conditions and positioning of structures on that site. I also find that strict compliance with the B.C.Z.R. would result in practical difficulty or unreasonable hardship, given that Petitioner 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 absence of opposition from the community and County reviewing agencies.

I also believe the request for Special Hearing should be granted. The Petitioner's home is a modest one story structure, with just over 1,200 square feet of livable space. As such, it is logical that the garage (which Petitioner wants to use for storage of an RV and antique cars)

would be larger than the home, and as noted earlier the site is fairly large and will accommodate the enlarged structure.

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

THEREFORE, IT IS ORDERED this **14th** day of December, 2012, by the Administrative Law Judge, that the Petition for Special Hearing seeking relief from § 500.7 of the Baltimore County Zoning Regulations ("B.C.Z.R."), to allow an accessory structure larger than the principle structure, be and is hereby GRANTED.

IT IS FURTHER ORDERED that the Petition for Variance filed pursuant to B.C.Z.R. §§400.1 and 400.3 to permit an addition to an existing detached accessory structure to be located on the third of the lot closest to the street in lieu of the required farthest removed and a height of 23 ft. in lieu of the maximum allowed 15 ft, be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

1. Petitioner may apply for its appropriate permits and be granted same upon receipt of this Order; however, Petitioner is hereby made aware that proceeding at this time is at its 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. 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.
4. Prior to the issuance of building permits for the garage addition, the Petitioner shall submit for approval to the DOP elevation drawings of the structure.

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/sln