

**IN RE: PETITION FOR VARIANCE**  
**(1605 Hicks Road)**  
7<sup>th</sup> Election District  
3<sup>rd</sup> Councilmanic District  
Paul Blinkin  
Petitioner

\* BEFORE THE  
\* OFFICE OF ADMINISTRATIVE  
\* HEARINGS FOR  
\* BALTIMORE COUNTY  
\* **CASE NO. 2013-0261-A**

\* \* \* \* \*

**ORDER AND OPINION**

This matter comes before the Office of Administrative Hearings (OAH) as a Petition for Variance filed by the legal owner of the property, Paul Blinken, for property located at 1605 Hicks Road. The Variance request is from Sections 1A08.6.C.2.f and 400.3 of the Baltimore County Zoning Regulations (“B.C.Z.R.”), to permit a proposed garage with a height of 23 ft. in lieu of the maximum of 15 ft. and located in the front yard in lieu of the required rear yard. The subject property and requested relief are more particularly described on Petitioner’s Exhibit 1.

This matter was originally filed as an Administrative Variance, with a closing date of May 27, 2013. On May 22, 2013, Eugene Flanagan, a neighbor at 1600 Hicks Road, requested a formal hearing on this matter. The hearing was subsequently scheduled for Thursday, June 27, 2013 at 11:00 AM in Room 205 of the Jefferson Building, 105 West Chesapeake Avenue, Towson. The file reveals that the Petition was properly advertised and the site was properly posted as required by the Baltimore County Zoning Regulations.

A Zoning Advisory Committee (ZAC) comment was received from the Bureau of Development Plans Review (DPR), indicating that the proposed garage shall be set back at least one foot away from the 10' drainage and utility easement, or 11' from the property line.

Appearing at the public hearing in support for this case was Paul Blinken and Brian Williamson, his contractor. Eugene Flanagan also attended the hearing, and expressed certain concerns regarding the proposal.

Testimony and evidence revealed that the subject property is approximately 4.42 acres and is zoned RC 7. The property is improved with a single family dwelling, which was constructed in 1984. The Petitioner (who is an automobile enthusiast) has lived in the home for over 12 years, and wants to construct a 4 car garage to store his vehicles. To do so requires variance relief.

Based upon the testimony and evidence presented, I will grant the request for variance relief. Under *Cromwell* and its progeny, to obtain variance relief requires a showing that:

- (1) The property is unique; and
- (2) If variance relief is denied, Petitioner will experience a practical difficulty or hardship.

*Trinity Assembly of God v. People's Counsel*, 407 Md. 53, 80 (2008).

The Petitioner has met this test. Mr. Blinken testified that there are steep slopes (in excess of 25%) to the rear of his home, which essentially dictates that the garage be placed in the front yard. Thus, the property is unique for zoning purposes.

The Petitioner would experience a practical difficulty if the regulations were strictly enforced, since he would be unable to construct the garage as planned. In addition, the grant of relief will not be injurious to the public's health, safety and welfare.

The subject property is located in a rural setting, and the Petitioner indicated there are only a few neighbors in the vicinity. His adjoining neighbors at 1609 Hicks Road (F.T. Burden & Charles Smith) submitted a letter stating they did not object to the proposed garage "that will

be used for storage.” Exhibit 4. Mr. Flanagan, who lives across the street at 1600 Hicks Road, testified he was concerned with the potential noise and environmental dangers that would exist if the garage was used for automotive body work and repairs. The Petitioner stated he was disabled, and had no intention of doing such work in the garage. A discussion was had concerning whether the garage would be equipped with an automobile lift, and while Petitioner initially indicated he did not want to install a lift, he at the same time did not want to be restricted from using a lift in the garage if he chose in the future to do so.

The discussion that took place at the hearing was a familiar one. When a garage is proposed, neighbors often express concerns with whether it will in fact be used for living quarters or commercial purposes. In this case, the Petitioner has expressly indicated the garage will not be used in either fashion. The zoning regulations define a “residential garage” as a building “used for storage of private motor vehicles.” B.C.Z.R. §101.1. A “service garage,” on the other hand, is one where “vehicles are stored, equipped for operation, repaired or kept for remuneration, hire or sale.” B.C.Z.R. § 101.1. As discussed at the hearing, it is not uncommon for a homeowner to undertake certain repairs to his vehicles, provided such work is not done for compensation. The situation becomes somewhat muddled when an owner is performing body/fender work or major engine repairs; in these scenarios (which, as Mr. Flanagan correctly notes, requires the use of air-powered tools and chemicals/solvents) it often appears that a “service garage” is being operated. The difficulty comes in trying to articulate exactly where the line gets drawn, but I will condition in certain respects the relief granted herein in an effort to ensure that the use does not negatively impact the community.

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

THEREFORE, IT IS ORDERED, this 28th day of June, 2013 by the Administrative Law Judge for Baltimore County, that the Petition for Variance from §§ 1A08.6.C.2.f and 400.3 of the Baltimore County Zoning Regulations ("B.C.Z.R."), to permit a proposed garage with a height of 23 ft. in lieu of the maximum of 15 ft. and located in the front yard in lieu of the required rear yard, be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

1. The Petitioner may apply for his 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, the Petitioner would be required to return, and be responsible for returning, said property to its original condition.
2. The garage shall not be used for commercial purposes, and shall not contain living quarters.
3. The second level or loft area of the garage, which will be accessed by a folding staircase, shall be used only for storage purposes.
4. The interior height of the garage (as shown on the cross-section diagram marked as Exhibit 2 and attached hereto) shall be a maximum of 9' as measured from the concrete floor to the ceiling, which shall be constructed of solid wood.

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

JEB:sln

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JOHN E. BEVERUNGEN  
Administrative Law Judge for  
Baltimore County