

IN RE: PETITION FOR ADMIN. VARIANCE

S side of Burdock Road; 285 feet E of
Denberg Road
3rd Election District
1st Councilmanic District
(2113 Burdock Road)

Eugene and Silvia Schmelzer
Petitioners

* BEFORE THE
* DEPUTY ZONING
* COMMISSIONER
* FOR BALTIMORE COUNTY
* **Case No. 2010-0230-A**

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FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Deputy Zoning Commissioner as a Petition for Administrative Variance filed by the legal owners of the subject property, Eugene and Silvia Schmelzer for property located at 2113 Burdock Road. The variance request is from Sections 205.2 and 205.3 (1955-1971) of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a proposed addition (garage) with a front building line setback of 34 feet and a street centerline setback of 59 feet, and also to permit a side yard setback of 6 feet 8 inches all in lieu of the required 40 feet, 65 feet, and 15 feet, respectively. The subject property and requested relief are more particularly described on Petitioners' Exhibit No. 1.

The Zoning Advisory Committee (ZAC) comments were received and are made part of the record of this case. Comments were received from the Bureau of Development Plans Review dated March 10, 2010 which indicated that permanent structures may not be built in a drainage and utility easement. This would include the garage wall footing. Petitioners may apply to the County for release of the easement or revise the drawing to remove the structure from the easement. Comments were received from the Office of Planning dated March 24, 2010 which indicates that the property is in the Greengate development plan, a single family development built in the 1970s. The Petitioners seek to modernize the dwelling with a garage addition to the side of

the dwelling which necessitates the 5 feet side yard variance in lieu of 15 feet. The Planning Office does not oppose the requested variance provided the Office of Planning reviews and approves the architectural elevation drawings for the addition prior to application of any building permit.

The Petitioners originally requested an Administrative Variance (closing date of March 29, 2010) to permit a garage addition on a dwelling with a setback to the side lot line of 5 feet in lieu of the required 15 feet. Upon review the Petition, site plan and the ZAC comments, the Undersigned wrote a letter to the Petitioners on April 6, 2010. The Petitioners were asked if they wished to revise the location of the garage wall footing, reduce the size of the garage or seek release of the easement. In a letter dated April 23, 2010, Petitioners indicated they examined the option of reducing the size of the proposed garage in order to prevent encroachment on the easement. However, this would result in a garage that is inadequate to accommodate two cars side by side. They also looked into the possibility of applying for the release of the easement from Baltimore County; however the application and approval process are costly and lengthy. In light of these issues, Petitioners indicated that they wanted to change the configuration of the garage from side by side to a tandem arrangement which will avoid any encroachment into the easement. Petitioners subsequently met with a representative from the Zoning Review Office to revise the Petition and the accompanying site plan. The revised Administrative Variance request is now the subject of this Order. County agencies have reviewed the amended Petition and site plan and have no opposition or other recommendations concerning the requested relief.

The Petitioners having filed a Petition for Administrative Variance and the subject property having been posted on May 2, 2010 and there being no request for a public hearing, a decision shall be rendered based upon the documentation presented.

The Petitioners have filed the supporting affidavits as required by Section 32-3-303 of the Baltimore County Code. Based upon the information available, there is no evidence in the file to indicate that the requested variance would adversely affect the health, safety or general welfare of the public and should therefore be granted. In the opinion of the Deputy Zoning Commissioner, the information, photographs, and affidavits submitted provide sufficient facts that comply with the requirements of Section 307.1 of the B.C.Z.R. Furthermore, strict compliance with the B.C.Z.R. would result in practical difficulty and/or unreasonable hardship upon the Petitioners.

Pursuant to the posting of the property and the provisions of both the Baltimore County Code and the Baltimore County Zoning Regulations, and for the reasons given above, the requested variance should be granted.

THEREFORE, IT IS ORDERED, by the Deputy Zoning Commissioner for Baltimore County, this 2nd day of June, 2010 that a variance from Sections 205.2 and 205.3 (1955-1971) of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a proposed addition (garage) with a front building line setback of 34 feet and a street centerline setback of 59 feet, and also to permit a side yard setback of 6 feet 8 inches all in lieu of the required 40 feet, 65 feet, and 15 feet, respectively is hereby GRANTED, subject to the following:

1. The Petitioners may apply for their building permit 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, the Petitioners would be required to return, and be responsible for returning, said property to its original condition.
2. The Office of Planning shall review and approve the architectural elevation drawings for the addition prior to the application of any building permit.

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

____SIGNED_____
THOMAS H. BOSTWICK
Deputy Zoning Commissioner
for Baltimore County

THB:pz