

<b>IN RE: PETITION FOR VARIANCE</b>	*	BEFORE THE
W side of Harberson Road; 170 feet S		
of the c/l of Woodbridge Road	*	DEPUTY ZONING
1 <sup>st</sup> Election District		
1 <sup>st</sup> Councilmanic District	*	COMMISSIONER
(1424 Harberson Road)		
	*	FOR BALTIMORE COUNTY
<b>Sultana Nayyer and Ahmed Nadeem</b>		
<i>Petitioners</i>	*	<b>CASE NO. 2010-0240-A</b>

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**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

This matter comes before this Deputy Zoning Commissioner for consideration of a Petition for Variance filed by the legal owners of the subject property, Sultana Nayyer and Ahmed Nadeem. Petitioners are requesting Variance relief from Section 1B02.3.C.1 of the Baltimore County Zoning Regulations (“B.C.Z.R.”) to permit an open carport addition with a side yard setback of 2 feet in lieu of the required 7.5 feet. The subject property and requested relief are more fully described on the site plan which was marked and accepted into evidence as Petitioners’ Exhibit 1.

Appearing at the requisite public hearing in support of the variance request were Petitioner Ahmed Nadeem, Amir Shahzad, a cousin who is helping the Petitioner through the variance process, and Dennis Leach of 1422 Harberson Road. Mr. Leach is the neighbor located on the same side as the carport and he is supportive of the Petitioners’ request. There were no Protestants or other interested persons in attendance at the hearing.

Testimony and evidence offered revealed that the subject property is square shaped, contains 7,952 square feet and is zoned D.R. 5.5. The property is located on the west side of Harberson Road and south of the centerline of Woodbridge Road in the Catonsville area of the County. As depicted on the site plan and shown in the photographs that were marked and

accepted into evidence as Petitioners' Exhibits 1 and 4, respectively, the property is improved with a one-story brick dwelling containing 1,140 square feet and the subject carport. According to tax records, the dwelling was constructed in 1965 and the Petitioner and his wife have resided at the property since 2004. The property was platted as "Section 8 – Westview Park" subdivision in May, 1965 (Petitioners' Exhibit 2). The Petitioner did not realize a permit was needed and that there were setback requirements for a carport. He went to the Home Depot and spoke with staff there about erecting the carport, what kind of footers and posts were needed, but was never told of the zoning and permit requirements. However, as a result of an anonymous complaint, a Code Inspector observed the property on February 2, 2010 and issued a Correction Notice for the construction of a detached carport on the side of the dwelling, constructed within the setback, and for failure to obtain building permit.<sup>1</sup> As a result, the Petitioner filed the instant request for variance relief.

Petitioner and his wife desire the carport because it will provide shelter when entering and exiting the residence and keep their vehicles out of the elements. The carport was erected on the only side of the property that is practical because that is where the driveway entrance and parking pad are located. Driveways in the neighborhood run from the street up the side yard and very close to the adjoining property line. Petitioner submitted photographs of the neighborhood that show similar structures (Petitioners' Exhibits 4A-4J).

Mr. Leach appeared as an interested citizen and lives directly adjacent to Petitioners' property, on the side where the carport is located. Mr. Leach indicated that he is supportive of Petitioners' choice for the location of the carport and agrees there really are not any other practical locations for the carport on the property.

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<sup>1</sup> CO-0052802

The Zoning Advisory Committee (ZAC) comments were received and are made part of the record of this case. Comments were received from the Office of Planning dated April 6, 2010 which indicates that the carport is already erected. It has a pitched roof and is completely open on all four sides. Although the appearance of the carport is attractive, it is situated very close to the side property line. If the variance is granted, it should be conditioned that the carport remains a completely open structure. The enclosure of any sides with walls or screens shall be prohibited.

Considering all the testimony and evidence presented, I am persuaded to grant the variance relief. I find special circumstances or conditions exist that are peculiar to the land or structure which is the subject of the variance request. The backyard to the adjacent property to the rear is elevated, so it would also be impractical to construct the carport in the rear yard. I further find that the imposition of zoning on this property disproportionately impacts the subject property as compared to others in the zoning district. I also find that the Petitioner would suffer practical difficulty and undue hardship if the variance was not granted. Petitioner would be unable to have a carport on the property to protect his vehicles and provide shelter when exiting and entering the dwelling. Carports are enjoyed by several property owners in the immediate neighborhood.

Finally, I find that the variance can be granted in strict harmony with the spirit and intent of said regulations, and in such manner as to grant relief without injury to the public health, safety and general welfare. In my judgment, this relatively small structure will not have a negative impact on the community and the most potentially affected neighbor, Mr. Leach, is supportive of Petitioners' request. The carport appears well built with a peak roof and fits in with the aesthetics of the property, which also appears to be well maintained. I believe the impact of the carport will be minimal.

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

THEREFORE, IT IS ORDERED this 14<sup>th</sup> day of June, 2010 by this Deputy Zoning Commissioner, that Petitioners' Variance request from Section 1B02.3.C.1 of the Baltimore County Zoning Regulations ("B.C.Z.R.") to permit an open carport addition with a side yard setback of 2 feet in lieu of the required 7.5 feet, be and is hereby **GRANTED**, subject to the following:

1. Petitioners are advised that they may apply for any required building 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 carport shall remain a completely open structure. The enclosure of any sides with walls or screens shall be prohibited.

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

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SIGNED  
THOMAS H. BOSTWICK  
Deputy Zoning Commissioner  
for Baltimore County

THB:pz