

IN RE: PETITION FOR ADMIN. VARIANCE	*	BEFORE THE
W side of Todd Avenue; 15 feet N of		
the c/l of Bayside Avenue	*	DEPUTY ZONING
15 th Election District		
7 th Councilmanic District	*	COMMISSIONER
(9238 Todd Avenue)		
	*	FOR BALTIMORE COUNTY
Susan M. and Stephen H. Kopriva		
<i>Petitioners</i>	*	Case No. 2010-0368-A

* * * * *

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, Susan M. and Stephen H. Kopriva for property located at 9238 Todd Avenue. The Variance request is from Section 400.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit an accessory structure (garage) to be located in the third of the last closest to the side street in lieu of the required third of the lot farthest removed from any street. The subject property and requested relief are more particularly described on the site plan that was marked and accepted into evidence as Petitioners' Exhibit 1.

On August 12, 2010, the undersigned called for a formal hearing on this matter based on negative comments from the Office of Planning. The hearing was subsequently scheduled for Friday, October 1, 2010 at 9:00 AM in Room 106 of the County Office Building, 111 West Chesapeake Avenue, Towson, Maryland. In addition, a sign was posted at the property and an advertisement was published in *The Jeffersonian* newspaper, giving neighbors and interested citizens notice of the hearing.

Appearing at the public hearing in support of the variance requests were Petitioners Susan and Stephen Kopriva. There were no Protestants or other interested persons in attendance.

Testimony and evidence received in the case revealed that the property is rectangular in shape and contains 0.463 acre or 20,168 square feet, fronts on Old Road Bay, and is located in the Fort Howard area of southeastern Baltimore County. The property is improved with a two-story single-family dwelling that is depicted in photographs that were marked and accepted into evidence as Petitioners' Exhibits 3A through 3C. According to tax records, the dwelling was constructed in 2003 and contains approximately 1,632 square feet. As indicated in the Affidavit that accompanied the Petition and in testimony at the hearing, Petitioners desire to construct a detached garage to be used only for storage of personal belongings. Due to the location of a waterline through the property, the garage cannot be constructed in the required location. As shown on the site plan, the proposed garage measures 32 feet deep by 24 feet wide by 15 feet high and would be located 25 feet from the property line on Bayside Avenue and 85.20 feet from the property line on Todd Avenue. Petitioners submitted a brochure that was marked and accepted into evidence as Petitioners' Exhibit 5, which depicts the appearance and style of the proposed structure and describes the MP-Panel™ by Fabral, the company that manufactures metal wall and roof systems. These panels feature tough steel construction and galvanized protective coating with vertical lines and come in 13 colors. The brochure indicates that the structures can be customized with entry doors, windows, cupolas and porches to make them more attractive. Petitioners' Exhibit 4 contains elevations for the garage as prepared by National Barn Company.

In support of the requested variance relief, Petitioners indicated that the unusual shape of the waterfront property as well as the location of the waterline on the property are features that drive the need for variance relief. In addition, Petitioners stated that the proposed location of the garage also makes the most logistical sense, since the garage would not block the view of Old

Road Bay. Mr. Kopriva also indicated that the new garage would fulfill the Petitioners' storage needs and would be of similar color to the existing house.

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 August 4, 2010 which states that Petitioners indicated that the proposed structure will be 32 feet x 24 feet x 15 feet high free standing industrial metal storage building to be used for storage only. Vehicles will not be stored within and there will be no driveway to the structure. There will be no windows on the structure and only one roll down door facing Bayside Avenue which is the same direction the adjacent house fronts. The building will be similar in color to the house. The Office of Planning states that the proposed structure, in materials and design, is not appropriate to the residential community in which the property is located. There are many accessory structures, primarily garages, that are built on the street side. They are, when detached, single story and of the same materials as the principal structures to which they are accessory. They have windows and doors and trim, in scale and design that complements the principal structures and the residential character of the neighborhood. The proposed building is on a corner lot where it will be highly visible in the neighborhood. The Office of Planning recommends the Petitioners find a location on the ample land on the waterside of the subject lot. Comments were received from the Department of Environmental Protection and Resource Management dated August 11, 2010 which indicates that development of the property must comply with the Chesapeake Bay Critical Area Regulations.

After 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. I further find that Petitioners would suffer

practical difficulty and undue hardship if the variance were to be denied. 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. Although I can appreciate the comments from the Office of Planning related to the look and appearance of the proposed garage, after reviewing the elevation drawings that were marked and accepted into evidence as Petitioners' Exhibit 4 and the brochure accepted into evidence as Petitioners' Exhibit 5, I believe Petitioners can have an accessory structure placed that would fit in with the neighborhood. I shall require Petitioners to construct a structure that is of similar color, including trim, as the primary residence, include a garage style door on the east elevation, two windows on the north side elevation, and a window and entrance door on the south side elevation. This will make the structure look more like a garage and less like an industrial style metal warehouse. These requirements are depicted on the redlined elevation drawings attached to this Order as Exhibit "A."

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 21st day of October, 2010 that a Variance from Section 400.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit an accessory structure (garage) to be located in the third of the last closest to the side street in lieu of the required third of the lot farthest removed from any street is hereby **GRANTED**, subject to the following:

1. 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. Development of this property must comply with the Chesapeake Bay Critical Area Regulations (Sections 33-2-101 through 33-2-1004 and other Sections of the Baltimore County Code).
3. The proposed structure shall be similar in color to that of the existing dwelling, including trim.
4. The proposed structure shall contain a garage style roll down door on the east side elevation, two windows on the north side elevation, and one entrance door and one window on the south side elevation as depicted in the redlined elevation drawings attached as Exhibit "A."

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

Attachment – Exhibit "A"