

**IN RE: PETITIONS FOR SPECIAL HEARING \*  
AND VARIANCE**  
W side of Arbutus Avenue, 205 feet N \*  
of the c/l of Rehbaum Avenue  
13<sup>th</sup> Election District \*  
1<sup>st</sup> Councilmanic District  
**(1516 Arbutus Avenue) \***  
  
Charles R. and Cindy L. Popp \*  
*Legal Owners*

BEFORE THE  
OFFICE OF  
ADMINISTRATIVE HEARINGS  
FOR BALTIMORE COUNTY  
  
**CASE NO. 2011-0256-SPHA**

\* \* \* \* \*

**OPINION AND ORDER**

This matter comes before the Office of Administrative Hearings for consideration of Petitions for Special Hearing and Variance filed by the legal property owners, Charles R. and Cindy L. Popp. The Special Hearing was filed pursuant to Section 500.7 of the Baltimore County Zoning Regulations (“B.C.Z.R.”) to approve the construction of a combination two-story garage and a separate living unit for aging parents. Petitioners are also requesting Variance relief from Section 400.3 of the B.C.Z.R. to permit a proposed detached accessory structure (a combination garage and living unit for aging parents) to have a height of 24 feet in lieu of the maximum allowed 15 feet. The subject property and requested relief are more fully described on the site plan that was marked and accepted into evidence as Petitioners’ Exhibit 1.

Appearing at the requisite public hearing in support of the Special Hearing and Variance requests was Charles R. and Cindy L. Popp, property owners. There were no Protestants or other persons present.

Testimony and evidence offered revealed that the subject property consists of 1.285 acres more less and is zoned DR 5.5. The subject property is located on Arbutus Avenue at its intersection with Potomac Avenue. The property is located adjacent to I-95 in the Arbutus area of Baltimore County. The property is improved with an existing single family residential dwelling

and a detached garage. Mr. and Mrs. Popp reside in the dwelling at this time and are desirous of tearing down the old garage and building a new garage structure with a small in-law suite above on the second floor. The purpose of the in-law suite is to allow Mrs. Pop's aging parents to reside in the small apartment. By doing so, the Petitioners will be able to look after and take care of these family members as they move into their older years. In order to proceed with their plans, a special hearing is necessary to approve the separate living unit on the property and a variance to allow the garage to be a height of 24 feet is also required.

It should also be noted that the property whereupon the house and new garage will be constructed comprises six individual lots of record as are shown on the site plan submitted into evidence. While there are six individual lots of record, the Petitioners only have one single family dwelling on these properties with the garage and in-law apartment comprising the second dwelling unit. Accordingly, there is no issue in granting the special hearing relief.

As to 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 also find that strict compliance with the B.C.Z.R. would result in practical difficulty or unreasonable hardship upon Petitioners.

I further find that the variance can be granted in strict harmony with the spirit and intent of said regulations, and in such a manner as to grant relief without injury to the public health, safety, and general welfare. Thus, 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).

The Zoning Advisory Committee (ZAC) comments were received and are made part of the record of this case. There were no adverse comments received from any of the County reviewing agencies. In addition to the support of the County agencies, the Petitioners also submitted into

evidence as Petitioners' Exhibit 3 a letter of support from the Halethorpe Improvement Association indicating their approval of this in-law apartment. In addition, the Petitioners secured from several of their surrounding neighbors letters of support which were collectively entered into evidence as Petitioners' Exhibit 4.

Based upon the testimony and evidenced offered, and the overwhelming support of this project, I am persuaded to grant the requested Special Hearing and Variance relief.

Pursuant to the advertisement, posting of the property, and public hearing on these Petitions held, and after considering the testimony and evidence offered by the parties, I find that Petitioners' requests for Special Hearing and Variance should be granted.

THEREFORE, IT IS ORDERED this 6<sup>th</sup> day of April, 2011, by the Administrative Law Judge, that the request for Special Hearing relief filed pursuant to Section 500.7 of the Baltimore County Zoning Regulations ("B.C.Z.R.") to approve the construction of a combination two-story garage and a separate living unit for aging parents be and is hereby GRANTED; and

IT IS FURTHER ORDERED that the Variance request relief from Section 400.3 of the B.C.Z.R. to permit a proposed detached accessory structure (a combination garage and living unit for aging parents) to have a height of 24 feet in lieu of the maximum allowed 15 feet be and is hereby GRANTED.

The relief granted is subject to the following conditions:

1. Petitioners may apply for their 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 the 30-day appeal period from the date of this Order has expired. If an appeal is filed and this Order is reversed, the relief granted herein shall be rescinded.
2. The Petitioners shall execute and file a Declaration of Understanding for In-Law Quarters with the Department of Permits and Development Management.

3. The in-law quarters must be used only by family members related to the Petitioners and not for rental/income purposes.
4. The Petitioners shall record a copy of this Order in the Land Records of Baltimore County.
5. When applying for a building permit, the site plan must reference this case and set forth and address the restrictions of this Order.

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

Signed \_\_\_\_\_  
TIMOTHY M. KOTROCO  
Administrative Law Judge  
for Baltimore County

TMK/pz