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| IN RE: PETITION FOR ADMIN. VARIANCE | * | BEFORE THE |
| NW Side Caveswood Lane, 1700' N of | | |
| c/line of Caves Road | * | OFFICE OF ADMINISTRATIVE |
| 4 th Election District | | |
| 2 nd Councilmanic District | * | HEARINGS FOR |
| (18 Caveswood Lane) | | |
| | * | BALTIMORE COUNTY |
| Brian and Marcia Lasky | | |
| <i>Legal Owners</i> | * | CASE NO: 2011-0272-A |

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings for Baltimore County for consideration of a Petition for Administrative Variance filed by Brian and Marcia Lasky, the legal owners of the subject property. Petitioners are requesting Variance relief under Sections I and III “A” Residence Zone A.13 (1945-1953 B.C.Z.R.) of the Baltimore County Zoning Regulations (“B.C.Z.R.”) to permit an existing and a proposed detached accessory structure (garages) to be located in the front yard and partially in the side yard of the principal dwelling in lieu of the required rear.¹ The subject property and requested relief is more fully depicted on the site plan that was marked and accepted into evidence as Petitioners’ Exhibit 1.

This matter was originally filed as an Administrative Variance, with a closing date of April 25, 2011. On May 2, 2011, Timothy M. Kotroco, Administrative Law Judge, called for a formal hearing on this matter based on a review of the file and correspondence received from an adjacent neighbor. The hearing was subsequently scheduled for Wednesday, May 25, 2011 at 11:00 AM in Room 205 of the Jefferson Building, 105 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.

¹ Although the Petition was filed for Variance relief pursuant to Section III “A” Residence Zone A.13 (1945-1953 B.C.Z.R.) of the Baltimore County Zoning Regulations (B.C.Z.R.), under today’s Regulations, the Petition would be filed pursuant to Section 400.1 of the B.C.Z.R.

Lisa Junker with Colbert Matz & Rosenfelt, the consulting firm who prepared the site plan for this property, presented the Petitioners' case. Anne Hagerty, the architect who will design the garage addition, also attended the hearing. The file reveals that the Petition was properly advertised and the site was properly posted as required by the B.C.Z.R. There were no Protestants or other interested persons in attendance at the hearing.

Testimony and evidence received in the case revealed that the property contains 1.20 acres (or 52,272 square feet), fronts on Caveswood Lane, and is located in the Owings Mills area of Baltimore County. The property is improved with a single-family dwelling and existing garage that is depicted in photographs that were marked and accepted into evidence as Petitioners' Exhibit 2. According to tax records, the dwelling was constructed in 1970 and contains approximately 3,999 square feet.

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. Correspondence dated April 19, 2011 was received from Martin S. Schugam, Ph.D., adjacent neighbor at 16 Cavewood Lane, who indicated that he did not have a problem with the request per se, but did have concerns. Ms. Junker had a copy of that correspondence, and she addressed on the record each of the four (4) items set forth in Dr. Schugam's letter, and confirmed that the Laskys' proposal was in compliance with all County requirements and that no construction would commence without the requisite permits. Ms. Junker also advised that the "additional footprint" of the proposed structure (as referenced at Paragraph 1 of Dr. Schugman's letter) would be in compliance with the B.C.Z.R., and that no additional impervious surface would be added since the garage will be constructed on the existing driveway.

Considering all of the testimony and evidence presented, I am persuaded to grant the requested 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 configuration of the lot is such that the front yard is the only realistic and aesthetically appropriate place to locate the garage. See Exhibit 2.

I further find that the granting of the relief as set forth herein can be accomplished without injury to the public health, safety, and general welfare. Therefore, in all manner and form, I find that variance relief can be granted in compliance with Section 307 of the B.C.Z.R. as articulated in *Cromwell v. Ward*, 102 Md. App. 691 (1995).

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

THEREFORE, IT IS ORDERED this 7th day of June, 2011 by this Administrative Law Judge that Petitioners' Variance request from Sections I and III "A" Residence Zone A.13 (1945-1953 B.C.Z.R.) of the Baltimore County Zoning Regulations ("B.C.Z.R."), be and is hereby GRANTED.

The relief granted herein shall be 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, Petitioners would be required to return, and be responsible for returning, said property to its original condition.

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

 Signed
JOHN E. BEVERUNGEN
Administrative Law Judge
for Baltimore County

JEB:pz