

IN RE: PETITION FOR VARIANCE
(1417 Francke Avenue)
8th Election District
3rd Councilmanic District
Ronald Goldstein
Petitioner

* BEFORE THE
* OFFICE OF ADMINISTRATIVE
* HEARINGS FOR
* BALTIMORE COUNTY
* **CASE NO. 2014-0269-A**

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) as a Petition for Variance filed by the legal owner of the property, Ronald Goldstein, for property located at 1417 Francke Avenue. The Petitioner is requesting Variance relief from Sections 400.1 and 400.3 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a garage on a corner lot that is “not on the half of the rear yard”¹ that is farthest removed from both streets with a height of 17.5 ft. in lieu of the required 15 ft.

This matter was originally filed as an Administrative Variance, with a closing date of July 7, 2014. On July 1, 2014, Mary L. Arthur, neighbor, requested a formal hearing on this matter. The hearing was subsequently scheduled for Friday, August 1, 2014 at 10:00 AM in Room 205 of the Jefferson Building, 105 West Chesapeake Avenue, Towson. The Petition was advertised and posted as required by the Baltimore County Zoning Regulations. There were no substantive Zoning Advisory Committee (ZAC) comments received. Appearing at the public hearing in support for this case was owner Ronald Goldstein. Mary Arthur and her daughter Sara (neighbors) attended the hearing to obtain additional information concerning the request.

¹ In fact, B.C.Z.R. Section 400.1 references the “third” of the rear yard farthest removed from the road. As such, the Order will refer to “third” instead of “half,” as stated in the Petition.

The subject property is approximately 9,779 square feet and is zoned DR 3.5. The property is improved with a modest single family dwelling, which Petitioner has owned since 2001. Petitioner has need for additional storage, and proposes to construct a detached garage (27' x 22') in his rear yard where it adjoins Lincoln Avenue, which requires variance relief.

Based upon the testimony and evidence presented, I will grant the petition for variance.

To obtain variance relief requires a showing that:

- (1) The property is unique; and
- (2) If variance relief is denied, Petitioner will experience a practical difficulty or hardship.

Trinity Assembly of God v. People's Counsel, 407 Md. 53, 80 (2008).

The Petitioner has met this test. The property is small and adjoins two public streets, which creates site constraints and renders the property unique. The Petitioner would experience a practical difficulty if the regulations were strictly interpreted, since he would not have a suitable rear yard location for the garage. Finally, the grant of relief will not be detrimental to the community.

Although the Department of Planning did not make any recommendations related to the garage height and usage, I will impose conditions that the proposed garage not be converted into a dwelling unit or apartment, not contain any sleeping quarters, living area, kitchen or bathroom facilities, and not be used for commercial purposes.

THEREFORE, IT IS ORDERED, this 1st day of August, 2014 by the Administrative Law Judge for Baltimore County, that the Petition for Variance from Sections 400.1 and 400.3 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a garage on a corner lot that is not in the rear third of the lot that is farthest removed from both streets with a height of 17.5 ft. in lieu of the required 15 ft., be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

1. Petitioner may apply for appropriate permits and be granted same upon receipt of this Order; however, Petitioner is hereby made aware that proceeding at this time is at his own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, Petitioner would be required to return, and be responsible for returning, said property to its original condition.
2. The Petitioner or subsequent owners shall not convert the subject garage into a dwelling unit or apartment. The garage shall not contain any sleeping quarters, living area, kitchen or bathroom facilities.
3. The garage shall not be used for commercial purposes.

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:sln