

IN RE: PETITIONS FOR SPECIAL HEARING *	BEFORE THE
AND VARIANCE	
(8911 Millers Island Road) *	OFFICE OF
15 th Election District	
7 th Council District *	ADMINISTRATIVE HEARINGS
Harry R. & Sharon L. Stewart	
<i>Legal Owners</i> *	FOR BALTIMORE COUNTY
Petitioners *	Case No. 2015-0202-SPHA
* * * * *	* *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) for consideration of Petitions for Special Hearing and Variance filed on behalf of the legal owners. The Special Hearing was filed pursuant to § 500.7 of the Baltimore County Zoning Regulations (“B.C.Z.R.”) to approve an accessory structure (detached garage) with a footprint area larger than the footprint area of the principal use dwelling. In addition, a Petition for Variance pursuant to B.C.Z.R. §§400.1 and 400.3 seeks to permit an accessory structure (detached garage) to be located in the side yard with a height of 23 ft. in lieu of the required rear yard placement and maximum height of 15 ft.

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. Appearing at the public hearing in support of the requests was owner Sharon Stewart. There were no Protestants or interested citizens in attendance. The Petition was advertised and posted as required by the Baltimore County Zoning Regulations. Substantive Zoning Advisory Committee (ZAC) comments were submitted by the Department of Planning (DOP), the Bureau of Development Plans Review (DPR), the Department of Public Works (DPW) and the State of Maryland MDE, Wetlands & Waterways Program. These are discussed below.

The subject property is approximately 20,500 square feet and is zoned DR 5.5. The property is comprised of two lots (Lots 285 & 286 in the Swan Point subdivision). Lot 285 is improved with a 2 story dwelling constructed in 1955. Lot 286 is unimproved. Petitioners propose to construct a garage on Lot 286, which will be connected to their dwelling with a breezeway as shown on the plan.

In light of the above, Petitioners do not require zoning relief to construct the garage. With regard to the Petition for Special Hearing, this is not an “accessory” structure; instead, it is considered part of the existing single family dwelling. Likewise, the restrictions contained in B.C.Z.R. §400 concerning the yard placement and height of accessory structures are inapplicable. Instead, the garage addition will be subject to the same bulk and area regulations as the single family dwelling, and based upon the site plan it does not appear as if variance relief would be necessary.

The DOP did not object to the request, but suggested that certain restrictions be included in the Order which are routinely included in cases involving detached garages. Consistent with the above, those restrictions are not germane here. The Bureau of DPR noted the site plan does not scale correctly, and Petitioners have submitted a revised plan with the proper 1"=20' scale. That Bureau’s comments regarding fencing are based upon an incorrect assumption that the garage would be adjacent to the dwelling at 8939 Millers Island Road. In fact, as zoning maps and other documents submitted at the hearing (Petitioners’ Ex. 3) show, that dwelling is a good distance from Petitioners’ house and is shielded by large trees and other vegetation. As such, fencing along the rear and side property lines is not required.

The final two comments were submitted by the DPW and State of Maryland. The reviewers noted that the County Building Code and State Regulations restrict to 900 square feet the size of accessory structures in areas subject to tidal flooding. But Petitioners submitted an e-mail dated

May 4, 2015 from the State reviewer indicating that since the garage is connected to the single family dwelling with a breezeway, the 900 square foot limitation is inapplicable.

THEREFORE, IT IS ORDERED this 6th day of May, 2015, by this Administrative Law Judge, that the Petition for Special Hearing filed pursuant to § 500.7 of the Baltimore County Zoning Regulations (“B.C.Z.R”) to approve an accessory structure (detached garage) with a footprint area larger than the footprint area of the principal use dwelling, be and is hereby DISMISSED WITHOUT PREJUDICE, as unnecessary.

IT IS FURTHER ORDERED that the Petition for Variance seeking an accessory structure (detached garage) to be located in the side yard with a height of 23 ft. in lieu of the required rear yard placement and maximum height of 15 ft., be and is hereby DISMISSED WITHOUT PREJUDICE, as unnecessary.

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

JEB/sln

Signed
JOHN E. BEVERUNGEN
Administrative Law Judge
for Baltimore County