

**BOARD OF APPEALS CASE NO. 5070**

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**BEFORE THE**

**APPLICANT: Jeffrey Barnes**

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**ZONING HEARING EXAMINER**

**REQUEST: Variance to allow an existing accessory structure which exceeds the height of the dwelling; 2400 Gilwood Drive, Joppa \***

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**OF HARFORD COUNTY**

**HEARING DATE: September 6, 2000**

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**Hearing Advertised**

**Aegis: 8/2/00 & 8/9/00**

**Record: 8/4/00 & 8/11/00**

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**ZONING HEARING EXAMINER'S DECISION**

The Applicant, Mr. Jeffery B. Barnes, is seeking a variance pursuant to Section 267-26C(1) of the Harford County Code to allow an existing accessory structure to exceed the height of the principal dwelling by 4.5 feet.

The subject property is located at 2400 Gilwood Drive, Joppa, Maryland 21085. The parcel is located within the Kingswood Subdivision and is more particularly identified on Tax Map 60, Grid 1D, Parcel 250. The parcel consists of 0.67 acres, more or less, is zoned RR/Rural Residential and is entirely within the Third Election District.

The Applicant, Mr. Jeffery Barnes appeared and testified that he had built his garage pursuant to all necessary permits and inspections. Apparently, the Department of Planning and Zoning approved all of the permits without realizing that a variance to the height was required. The existing house is 17.5 feet high and the Applicant has constructed a 22-foot high garage. The Applicant obtained all permits and inspections and severe hardship would result if the Applicant were not granted a variance since he would be required to tear down the structure.

The Department of Planning and Zoning acknowledges that it issued the permits based on a misunderstanding of how the height was to be measured. Additionally, the Department feels as though no adverse impact would result from the grant of the requested variance.

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### **CONCLUSION:**

Section 267-26C(1) provides:

**“In the AG, RR, R1, R2, R3, R4 and VR Districts, the accessory use or structure shall neither exceed fifty percent (50%) of the square footage of habitable space nor exceed the height of the principal use or structure. This does not apply to agricultural structures, nor does it affect the provisions of § 267-24, Exceptions and modifications to minimum height requirements. No accessory structure shall be used for living quarters, the storage of contractors’ equipment nor the conducting of any business unless otherwise provided in this Part 1.”**

Section 267-11 provides:

**"Variances from the provisions or requirements of this Code may be granted if the Board finds that:**

- (1) By reason of the uniqueness of the property or topographical conditions, the literal enforcement of this Code would result in practical difficulty or unreasonable hardship.**
- (2) The variance will not be substantially detrimental to adjacent properties or will not materially impair the purpose of this Code or the public interest."**

The Hearing Examiner agrees that severe hardship would result if this variance were not granted. The Applicant has complied with all requirements of the Code and appears here only because of a mistake made in the permit process. There is no evidence that any adverse impacts would result and 20 neighbors, including adjacent property owners, have provided to the Hearing Examiner their written support for approval. While there is no evidence that the property is topographically unique, the hardship that would result if the Applicant were required to take down the garage and the lack of adverse impact resulting from the “as built” overheight garage compels a recommendation that the application be approved.

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The Hearing Examiner, therefore, recommends approval conditioned upon the Applicant obtaining a final Use and Occupancy Permit.

Date SEPTEMBER 20, 2000

William F. Casey  
Zoning Hearing Examiner