

APPLICANTS:
Brad & Sherri Hutchens

REQUEST: Variance to allow a detached garage within the required front yard setback in the Rural Residential District

HEARING DATE: December 7, 2005

**BEFORE THE
ZONING HEARING EXAMINER
FOR HARFORD COUNTY
BOARD OF APPEALS**

Case No. 5514

ZONING HEARING EXAMINER'S DECISION

APPLICANTS: Brad & Sherri Hutchens

LOCATION: 2203 Furnace Road, Fallston
Tax Map: 31 / Grid: 4F / Parcel: 38
Fourth (4th) Election District

ZONING: RR / Rural Residential

REQUEST: Variance, pursuant to Sections 267-23A(2) and 267-35B, Table III, of the Harford County Code, to permit a detached garage with the required 40 foot front yard setback (16 foot setback proposed) in the RR District.

TESTIMONY AND EVIDENCE OF RECORD:

The subject property is a 1.62 acre, rural-residential zoned parcel, located on Furnace Road. The property is improved by a two-story home and detached garage. The home is described by the Applicant, Brad Hutchens, as being approximately 160 years old. The Applicants and their two children have resided in the home for approximately 11 years.

Both the home and the detached garage are distinguished by their relative close proximity to Furnace Road. While the lot is relatively wide, having 300+ feet of road frontage on Furnace Road, it is somewhat more shallow, and exhibits a very pronounced upward elevation change from approximately the middle of the lot to the rear of the lot and beyond. As a result of this topography, the house and garage are set quite close to Furnace Road.

The detached garage now located on the property is an approximately 20 feet by 20 feet wood frame building built many years ago. It is located approximately 13 feet from the travel portion of Furnace Road. The proximity of the detached garage to Furnace Road, and the sharply curving configuration in that area of Furnace Road, make it difficult and unsafe for the Applicants to park their personal vehicles either in or in front of the garage. Attachment 10 to the Staff Report, which consists of photographs of the property and its relationship to Furnace Road, amply demonstrate the configuration of the road, the proximity of the garage to the road, and the unusual topography of the site.

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The Applicant testified that he and his wife wish to remove and replace the existing detached garage with a new detached garage having dimensions of approximately 23 feet by 40 feet. This new garage would be located about 15 feet further back from Furnace Road, and would be moved closer to the property side lot line. Accordingly, the new garage would be within 8 feet of the side property line, which is approximately 13 feet closer than the existing garage. The Applicant testified that the proposed location of the garage is the only feasible location due to it being the only relatively flat spot on the property in which to construct such a garage, and at the same time provide sufficient depth for safe access and parking.

The Applicant further stated that the private septic system for the house is located opposite the house from the proposed site of the garage, which precludes the garage from being built in that area. The property to the back of the house and existing garage is, again, relatively steep which would preclude the garage from being built anywhere other than that proposed. The Applicant believes the proposed site is the only feasible one. Construction of the proposed garage would match that of the house. It would be vinyl covered, board and batten construction, designed to resemble the facade of the Applicants' home.

The Applicant has talked to the only neighbor who would be impacted by the use. That neighbor has expressed support for the application.

Next for the Harford County Department of Planning and Zoning testified Anthony McClune. Mr. McClune stated that no side yard variance is necessary. There are no neighbors within close proximity to the property who would be impacted by the proposed use. Mr. McClune believes that the property has severe topographical constraints. To construct the garage in any other location would require very extensive grading. Due to the very extreme configuration of Furnace Road at the location of the Applicants' property, Mr. McClune believes that moving the detached garage farther back from its present location would be the safest and most feasible solution to the Applicants parking concerns.

There was no evidence or testimony given in opposition.

APPLICABLE LAW:

Section 267-11 of the Harford County Code allows the granting of a variance to the requirements of the Code:

“Variances.

- A. Except as provided in Section 267-41.1.H., variances from the provisions or requirements of this Part 1 may be granted if the Board finds that:*

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- (1) *By reason of the uniqueness of the property or topographical conditions, the literal enforcement of this Part 1 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 Part 1 or the public interest.*
- B. *In authorizing a variance, the Board may impose such conditions regarding the location, character and other features of the proposed structure or use as it may deem necessary, consistent with the purposes of the Part 1 and the laws of the state applicable thereto. No variance shall exceed the minimum adjustment necessary to relieve the hardship imposed by literal enforcement of this Part 1. The Board may require such guaranty or bond as it may deem necessary to insure compliance with conditions imposed.*
- C. *If an application for a variance is denied, the Board shall take no further action on another application for substantially the same relief until after two (2) years from the date of such disapproval.”*

FINDINGS OF FACT AND CONCLUSIONS OF LAW:

The Applicants own and reside, along with their two children, in an attractive, older home located on Furnace Road. While located on a fairly large lot, the natural topography of the property forces the home, and the detached garage, close to Furnace Road. The property is also unusually affected by the rather severe configuration of Furnace Road, which makes a relatively sharp turn at the location of the garage and along the front of the Applicants' property.

It is readily apparent by review of the photographs in the file that there is little space available on the property in which to construct any sort of out-building. The existing detached garage is located at one of the only flat spaces left on the property. It is in a location so close to Furnace Road as to make it virtually impractical for parking or storage of vehicles, given the configuration of Furnace Road, and the speed and volume of traffic which passes by.

As a result, the Applicants wish to remove and replace that detached garage with one which will be located somewhat further back from Furnace Road. However, in order to do so they must secure a variance as the garage in its new location would be within the required front yard of the property.

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According to the Department of Planning and Zoning, the front yard setback requirement is 70 feet from the central line of Furnace Road. The existing garage is only 26 feet back from the center line of the road, whereas as the proposed garage in its new location will be set back approximately 46 feet from the center line of Furnace Road. While considerably further back than the existing garage, it nevertheless would still impact the 70 feet setback requirement by 24 feet. The evidence of record, including the Harford County Department of Planning and Zoning Staff Report, indicate that the garage cannot be set any further back than as proposed, given the topography of the property.

It is, accordingly, found that the Applicants suffer a practical difficulty due to the unique configuration of their property, and the close proximity of the improvements to Furnace Road. That hardship is their inability to relocate, primarily for safety reasons, the existing garage without securing a variance.

It is found that the variance requested is the minimum necessary in order to provide the Applicants with the relief which they seek, and there would be no adverse impact to any adjoining neighbor or to the neighborhood. Indeed, the requested variance will have little noticeable impact except to allow the relocation farther back from Furnace Road of the Applicants' detached garage.

CONCLUSION:

Accordingly, it is recommended that the requested variance be granted, subject to the following conditions:

1. That the Applicants obtain all necessary permits and inspections.
2. That the garage be built with materials and with a design which conforms to the existing house.

Date: January 9, 2006

ROBERT F. KAHOE, JR.
Zoning Hearing Examiner

Any appeal of this decision must be received by 5:00 p.m. on FEBRUARY 7, 2006.