

APPLICANT:
Mary Ann Corun

REQUEST: A variance to permit a garage within the required front yard setback in the B3 District

HEARING DATE: July 11, 2007

BEFORE THE
ZONING HEARING EXAMINER
FOR HARFORD COUNTY
BOARD OF APPEALS
Case No. 5602

ZONING HEARING EXAMINER'S DECISION

APPLICANT: Mary Ann Corun

LOCATION: 1900 Bel Air Road, Fallston
Tax Map: 55 / Grid: 2D / Parcel: 141 / Lot: 60 Block A
Third (3rd) Election District

ZONING: B3 / General Business District

REQUEST: A variance, pursuant to Section 267-39(B) Table XII, of the Harford County Code, to permit a garage within the required 30 foot front yard setback (17 foot setback proposed), in the B3 District.

TESTIMONY AND EVIDENCE OF RECORD:

Mary Ann Corun testified that she is the owner of that 15,000 square foot parcel located at 1900 Bel Air Road, which is the subject of this application. The subject parcel is improved by a single-family dwelling built in 1947, and two garages which are used to store cars, a lawn mower, and other lawn maintenance equipment. Currently residing in the residence are Ms. Corun, her adult children, and their families.

The property has dimensions of 50 feet by 300 feet, with the narrow lot side facing U.S. Route 1. The garages are located about 17 feet from the property's north side lot line, which adjoins Eutaw Avenue, a private street which intersects U.S. Route 1. The lot is non-conforming.

Ms. Corun explained that her property actually adjoins three roads; Bel Air Road (U.S. Route 1) to the northeast side; Eutaw Avenue, a private road to the northwest; and West Grove Road, a private road to the southwest side. To the southeast the property adjoins a used car dealer. Much of the surrounding area is zoned and used commercially.

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Ms. Corun explained that the family has a total of about seven vehicles which they park on the property. Because of lack of adequate garage space the vehicles are generally parked outside. Her desire is to replace the two small existing garages with one larger garage having dimensions of 28 feet by 48 feet. She believes this will be sufficient to house her lawn equipment and a number of the vehicles. However, as the property is only 50 feet in width, she is unable to maintain existing side yard setback requirements without the requested variance.

For the Harford County Department of Planning and Zoning next testified Shane Grimm. Mr. Grimm confirmed that the lot size is non-conforming, and the location of the two existing garages are non-conforming. The fact that the property has three road frontages greatly reduces its buildable area. The Department has recommended, and Ms. Corun has agreed, to site the garage as far back off Eutaw Avenue as possible. Accordingly, Ms. Corun has agreed to conform to a 17 foot setback off Eutaw Avenue. This would place the garage within 5 feet of the property line adjacent to the used car dealer on the southeast side of the property. Mr. Grimm believes that this location is the most appropriate one for the garage. The new garage is, in essence, replacing the two existing garages which will be removed.

Mr. Grimm believes the parcel is unique for the reasons outlined above, and that the requested variance is the minimum necessary to provide the relief desired. Mr. Grimm envisions no adverse impact as the surrounding uses are commercial in nature.

No testimony or evidence was 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:*
- (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.*

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- 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 Applicant lives on a lot which would not be allowed under the current Development Regulations. It is 50 feet wide and 300 feet long, and fronts on three roads. One of those roads is Bel Air Road which is a heavily used major arterial.

The Applicant's property is a virtual island of residential use in a heavily commercialized area. While not mentioned at the hearing, it is a matter of public knowledge that the Wal Mart now planned for the Fallston area is to be constructed virtually directly across Bel Air Road from the Applicant's property.

Furthermore, the Applicant's parcel is improved by two old garages, having approximate dimensions of 20 feet by 20 feet each. (See Attachment 3 to the Staff Report). The Applicant testified that these two garages are not particularly useful for lawn equipment storage, or for parking her family's numerous vehicles due to their condition and limited size. She instead proposes to remove these two garages and replace them with a larger one having dimensions of 28 feet by 48 feet. A garage of that size, the Applicant believes, will be sufficient for her family's purposes.

The proposed garage will come no closer to Eutaw Avenue, or to Bel Air Road, than do the existing garages. While it will come somewhat closer to the southeast corner of the property, that portion of the property fronts the used car dealer and auto storage lot. There is virtually no chance, given the underlying commercial zoning of the area and the increasingly intense commercialization of that area, that the auto storage lot on the southeast corner will ever be used for less intensive purposes.

It should further be noted that the Applicant is allowed to expand the existing garages as a matter of right under the Development Regulations. However, she cannot remove the non-conforming use garages and replace them without this variance.

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It is easily found that the subject parcel is unique. It is a non-conforming lot, having a width of a mere 50 feet, yet a depth of 300 feet, surrounded by commercial uses in a particularly intensively commercialized area of Harford County. The Applicant has lived on the subject property for many years, and has expressed a desire to continue to live there with her family. In order to update the improvements on her property she wishes to remove two old garages and replace them with a new garage which will have dimensions slightly greater than the two old garages combined. In truth, the Applicant could have achieved the same result by renovating the older garages and expanding them as would be allowed under the Harford County Zoning Code. However, a newly constructed garage would be more efficient and better serve the Applicant's needs.

It is accordingly found that the Applicant suffers a difficulty due to the configuration of her property in that she is unable to construct a garage similar to many others within Harford County without the requested variance. The variance itself, which impacts the front yard setback along Eutaw Avenue by 13 feet, is the minimum necessary to achieve the Applicant's purposes and to relieve the burden which is otherwise imposed by conformity with the Harford County Development Regulations.

No adverse impact will result and, in fact, the Applicant's property, if not other neighboring properties, will benefit by the improvement.

CONCLUSION:

It is accordingly recommended that the requested variance be granted, subject to the following conditions:

1. The Applicant shall obtain all necessary permits and inspections for the construction of the new garage and removal of the two existing structures.
2. The garage shall not be used for living space.

Date: August 2, 2007

ROBERT F. KAHOE, JR.
Zoning Hearing Examiner

Any appeal of this decision must be received by 5:00 p.m. on AUGUST 30, 2007.