

APPLICANTS:
Charles & Kathleen Ebner

REQUEST: A variance to permit a garage within the required 10 foot side yard setback in the R2 District

HEARING DATE: August 8, 2007

BEFORE THE
ZONING HEARING EXAMINER
FOR HARFORD COUNTY
BOARD OF APPEALS
Case No. 5608

ZONING HEARING EXAMINER'S DECISION

APPLICANT: Charles Bryan Ebner

CO-APPLICANT: Kathleen Mary Ebner

LOCATION: 806 Bear Cabin Drive – Forest Lakes, Forest Hill
Tax Map: 40 / Grid: 3D / Parcel: 199 / Lot: 115
Third (3rd) Election District

ZONING: R2 / Urban Residential

REQUEST: A variance, pursuant to Section 267-36B, Table V, of the Harford County Code, to allow a garage within the required 10 foot side yard setback (6.5 foot setback proposed) in the R2 District.

TESTIMONY AND EVIDENCE OF RECORD:

Co-Applicant Kathleen Ebner described the subject property as an approximately quarter acre lot located in the Forest Lakes subdivision of Forest Hill. The property is improved by a two-story colonial home with a one-car attached garage, and a screened deck and porch to the rear of the home. The Applicants purchased the property in 1992 and live there with their three children. The family owns four vehicles.

All other parcels on their street, stated Mrs. Ebner, have two-car attached garages. The subject property is the only parcel with a one-car attached garage. Furthermore, the size of the existing garage, which is 12 feet by 21.5 feet, is too small to practically be used for storage of a car and associated household and lawn items. Instead, from the time that the Applicants purchased the property, the garage has been used for storage of lawn maintenance equipment and other personal items. A car has never been parked within the garage.

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The Applicants request this variance in order to convert the existing garage to a two-car attached garage having dimensions of 22 feet wide by 22 feet deep. As the property is impacted by a 10 foot side yard setback requirement on the garage side of the home, a total variance of 3.5 feet is requested.

Mrs. Ebner pointed out that their lot is wider in the front than it is in the rear and that the house and existing attached garage are not parallel to the side lot line. In fact, the proposed garage will be 6.5 feet from the lot line at the front of the garage, and 8 feet from the lot line at its rear due to the tapering nature of the lot.

No neighbor has expressed opposition to the requested variance. In fact, stated Mrs. Ebner, the adjoining property, which would be most heavily impacted by the proposed garage, is improved by a garage on the side which faces the Applicants' property. Accordingly, Mrs. Ebner sees no impact to that neighbor.

Furthermore, explained Mrs. Ebner, the Applicants' home could have been constructed closer to the southeast property line (the property line opposite the garage side of the property), but was not. If the house had been located further to the southeast, the requested variance would not be necessary.

Mrs. Ebner indicated that the new garage will be constructed with materials and in a style similar to that of the existing home. She had gone to great trouble to locate brick that matches the brick from which the home is constructed.

Next for the Harford County Department of Planning and Zoning testified Anthony McClune. Mr. McClune confirmed that, in fact, the Applicants' home is the only house within its subdivision, to Mr. McClune's knowledge, that has a single car attached garage. Furthermore, the Applicants' lot does, indeed, become narrower toward its rear. This is due, in Mr. McClune's opinion, to the fact that the lot sits on the inside of a curve in the street which gives it an unusual shape. Mr. McClune stated that side yard averaging is allowed and, accordingly, the requested variance is approximately 3 feet.

The Department of Planning and Zoning Staff Report concludes:

"The Department finds that the subject property is unique. This is the only dwelling along Bear Cabin Drive that has a one car garage. Had the builder placed the dwelling closer to the right property line a variance would not be necessary. The proposed structure will be compatible with other garages in the area and will not adversely impact the adjacent property or the intent of the code."

There was no testimony or evidence given in opposition.

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APPLICABLE LAW:

Section 267-11 of the Harford County Code allows the granting of a variance, as follows:

“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.*
- 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 and their three children live in a two story colonial dwelling in the Forest Lakes subdivision of Harford County. The property is improved by a one-car attached garage which, according to the uncontradicted testimony presented at the hearing, is unusual in the Applicants’ subdivision. The majority of garages in their neighborhood are two-car attached garages.

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Due to the size of their family and the need for additional space, the Applicants propose to renovate the existing garage into a two-car garage. Mrs. Ebner has obviously spent a substantial amount of time in locating brick that matches the existing home. The garage will be built with that brick and to match the existing home. The construction of such a garage would obviously be a standard improvement in the Applicants' neighborhood and would, in fact, result in their property being more similar to other homes located there.

However, due to the tapering nature of the Applicants' lot and the location of the home somewhat off the southeast setback line, the Applicants cannot build a standard two-car garage without impacting the 10 foot side yard requirement by approximately 3 feet.

It is found that the Applicants are unable to comply with the requirements of the Code due to the unusual features of their property. Those features, which are the tapering nature of the lot and the location of the home 6 feet behind the southeast setback line, result in a practical difficulty. That practical difficulty is the Applicants inability to construct an improvement standard in their neighborhood and within Harford County. The difficulty presented to the Applicants can be alleviated by the requested variance of 3 feet. It is found that the relief requested is the minimum necessary to rectify this hardship.

It is further found there will be no adverse impact to the neighborhood and, in fact, the proposed addition should be an improvement to the neighborhood.

CONCLUSION:

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

1. The Applicants shall obtain all necessary permits and inspections for the construction of the garage.
2. The Applicants shall landscape along the property line in the area of the garage.
3. The garage shall be built in a style and with materials similar to that of the existing home.

Date: September 4, 2007

ROBERT F. KAHOE, JR.
Zoning Hearing Examiner

Any appeal of this decision must be received by 5:00 p.m. on OCTOBER 4, 2007.