

APPLICANT:
John Green and Barbara Ann Green

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

HEARING DATE: December 5, 2007

BEFORE THE
ZONING HEARING EXAMINER
FOR HARFORD COUNTY
BOARD OF APPEALS
Case No. 5626

ZONING HEARING EXAMINER'S DECISION

APPLICANT: John Green

CO-APPLICANT: Barbara Ann Green

LOCATION: 605 Remington Road – Powder Mill Subdivision
Tax Map: 55 / Grid: 1A / Parcel: 656 / Lot: 4
Third (3rd) Election District

ZONING: RR / Rural Residential

REQUEST: A variance, pursuant to Section 267-35B, Table III, of the Harford County Code, to allow a garage within the required 15 foot side yard setback (3 foot setback proposed) in the RR District.

TESTIMONY AND EVIDENCE OF RECORD:

The Applicants are the owners of a 3/4 acre parcel of RR zoned land located in Fallston, Maryland. The property is improved by a one-story rancher without garage or other out buildings. The Applicants have owned the parcel for approximately 30 years, and currently occupy the home with their daughter.

The Applicants request this variance to allow them to construct an attached garage to the northeast side of their existing home which is, in fact, the point at which their house comes closest to its lot line. The 16 feet by 32 feet garage, proposed by the Applicants, would come to within 3 feet of the property line.

Case No. 5626 – John & Barbara Ann Green

The Applicants explained their variance request as being necessary due to the odd topographical characteristics of their property. Despite the proposed location being the closest to the property line, the Applicants state that the garage cannot be built on the opposite side of the home, that is, to the right as one were to look at the home from Remington Road, as that is the location of their septic system. Furthermore, despite having a relatively large back yard, a garage cannot be located within the back yard due to extreme storm water flow. The Applicants assert that the topography of the property rises in three directions, with a general increase in elevation to the north, west and east. As a result, rain and snow melt accumulate in the back yard of the property and flows through to the south. This water flow virtually isolates the home from its rear yard and makes it impossible to construct any sort of improvement in the rear yard.

The Applicants introduced photographs marked as Applicants' Exhibit "2" which quite clearly show the drainage and water flow problem within the Applicants' back yard.

Furthermore, the Applicants have made numerous plantings of vegetative cover within the back yard in an attempt to stabilize the ground. A garage in those locations would require the removal of that vegetation.

The Applicants also assert that their property has a high water table. In very dry times the rear and right sides of their hot remains wet and soggy.

The Applicants have contacted their neighbors and none has objected to the requested variance. The neighbors who would be most immediately affected by the variance have no objection. The proposed location of the garage is well screened by trees and other plantings. No additional screening will be necessary.

The Applicants also testified that their home is the only property within their neighborhood which does not have a carport or garage. The construction of a garage will add a convenience which is enjoyed by others. The appearance and construction of the garage will be similar to that of the existing home.

For the Harford County Department of Planning and Zoning testified Anthony McClune. Mr. McClune verified the observations of the Applicants in finding that the property is unique. The Department and Mr. McClune believe that the topography and the drainage to the rear and side of the property is such that it precludes the garage or any other improvement from being located in these areas. Existing vegetation will provide adequate screening at the proposed location, and the garage will be consistent with other structures in the area. The Department finds there will be no adverse impact on any adjoining property.

No testimony or evidence was given in opposition.

Case No. 5626 – John & Barbara Ann Green

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.

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 have presented, in convincing fashion, a scenario such justifies a granting of their requested variance. While the Applicants own a relatively large 3/4 acre parcel, much of their property is in fact made relatively useless for improvement purposes due to its topography. Surface water is forced to flow into the rear of the back yard and to its south side. This periodic water flow precludes the construction of normal improvements in the area. Furthermore, the ground itself remains saturated for most of the year, and would make a difficult foundation for any improvement, particularly a garage as proposed by the Applicants. The southwest side of the house is also encumbered by the existing septic drain field.

Case No. 5626 – John & Barbara Ann Green

The Applicants have lived in their home for 30 years without a garage, even though most if not all of the surrounding neighbors do have garages. The construction of a garage at the proposed location would result in a setback of about 3 feet from the adjoining property line. However, the neighbor on that side has no objection, and the garage will be well screened by existing vegetation.

These unusual features cause the Applicants a hardship in that they are unable to build a garage similar to others within their neighborhood, and one which is surely a normal amenity in most subdivisions. The requested relief is the minimum necessary to cure the hardship, and there will be no adverse impact to any adjoining neighbor.

CONCLUSION:

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

1. The Applicants must obtain all necessary permits and inspections for the proposed garage.
2. The garage be constructed in such a fashion so as to be similar to that of the existing home.

Date: January 9, 2008

ROBERT F. KAHOE, JR.
Zoning Hearing Examiner

Any appeal of this decision must be received by 5:00 p.m. on FEBRUARY 7, 2008.