

APPLICANTS:
Barbara & Anthony Mento

REQUEST: Variance to construct a two-car garage within the required side yard setback in the Rural Residential District

HEARING DATE: May 4, 2011

BEFORE THE
ZONING HEARING EXAMINER
FOR HARFORD COUNTY
BOARD OF APPEALS
Case No. 5734

ZONING HEARING EXAMINER'S DECISION

APPLICANTS: Barbara & Anthony Mento

LOCATION: 2608 Claret Road, Fallston
Tax Map: 47 / Grid: 3E / Parcel: 465
Third (3rd) Election District

ZONING: RR / Rural Residential

REQUEST: Variance, pursuant to Section 267-54B(2), Table 54-1, of the Harford County Code, to allow a 20 foot by 25 foot attached garage to encroach into the minimum 15 foot side yard setback (10 foot setback proposed), in the Rural Residential District.

TESTIMONY AND EVIDENCE OF RECORD:

The subject parcel is an approximately 0.82 acre lot, improved by a single-family ranch-type dwelling and located within the Brandywine Farms subdivision of Fallston. The residence has been occupied by the Applicants since 1987. No improvement other than the house is located on the parcel. A deck is attached to the rear of the house.

The parcel itself slopes downward, away from Claret Drive. No doubt partly as a result, the house is located somewhat to the front, or Claret Drive side of the parcel. The rear portion of the lot contains the waste disposal system, septic reserve area, and mature trees. The Staff Report describes the property as "predominately forested".

Desiring additional storage room and space to store their cars, the Applicants propose to construct a two-car garage, having dimensions of 20 feet by 26 feet, to be attached to their home on the west side. Because of the drop in topography of the parcel, the Applicants would be required to construct a fairly sizeable foundation in order to bring the level of the garage to the elevation of the driveway and front yard of the house. The garage would match the exterior appearance and roof of the existing home. The Applicants assert that most homes in the neighborhood have garages of a similar type, and the proposed garage would be in keeping with them.

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The Applicants further suggest that, due to the mature woodland in the rear yard of the property and the existence of the septic reserve area and drain field, it would be difficult, if not impossible, to construct a garage in that area. Furthermore, available land on the easterly side of the home is less than that on the westerly side.

As the Applicants are required to maintain a 15 foot setback on the west side, and the garage would extend 5 feet into that setback, this variance is requested. The Applicants believe that approval of the variance and the construction of the garage approximately 10 feet from the westerly lot line would have no adverse impact and cause no disruption to the neighborhood or any adjoining neighbor. The Applicants have received no complaints from neighbors and, in fact, have received letters supporting the application, copies of which are in the file.

For the Department of Planning and Zoning testified Anthony McClune, Deputy Director. Mr. McClune identified the subject property as being one of the smallest in the neighborhood. Two-car garages are very common in this neighborhood and, in fact, Mr. McClune was able to identify only a few homes which do not have garages. The location proposed for the garage is the most suitable. The rear yard is encumbered by mature trees, septic reserve area, and additionally contains soils which are not conducive to the construction of permanent improvements. The Department finds no adverse impact and recommends approval of the request variance, with no specific additional conditions.

Contained in the file are letters of support from Christopher and Carolyn van Roden, who are the nearest neighbors, adjoining on the west side of the Applicants' parcel. Mr. van Roden also attended the hearing to support the Applicants' request.

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.*

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- (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.”*

The Applicants are requesting a variance to Section 267-54B(2) which states:

- “(2) *Minimum lot area, maximum lot area, maximum average lot area, area per dwelling or family unit, building setback from adjacent residential lot lines, lot width, front, side and rear yard and maximum building height, as displayed in Table 54-1, shall apply, subject to other requirements of this Part 1.”*

FINDINGS OF FACT AND CONCLUSIONS OF LAW:

The Applicants are the owners of an attractive rancher in the well-established community of Brandywine Farms, and wish to improve their parcel by constructing a two-car garage which would be similar in style and appearance to their existing home and in keeping with other improvements within Brandywine Farms. However, the house itself is pitched somewhat forward on the lot due to the lot’s topography and comes relatively close to both side yard lot lines. The westerly side of the home actually contains more available building space than the easterly side, and the Applicants’ propose to locate the garage in that location. The proposed, modest-sized garage would, however, impact the required 15 foot side yard setback by 5 feet. Accordingly, a variance is requested.

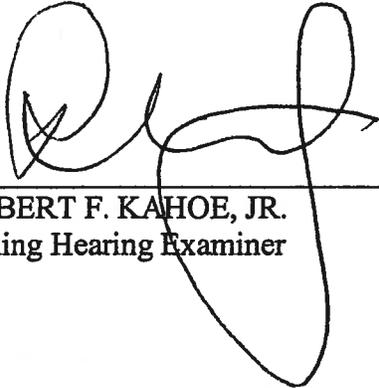
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Due to the topography of the lot, the inability of the Applicants to construct the garage to the front or rear of the property and the shallow depth of available space on either side of the house, the proposed location is the best and most appropriate for the construction of the garage. To deny the construction of the garage would cause the Applicants' practical difficulty, which the requested variance will alleviate. The requested relief is a 5 foot side yard variance, which is the minimum relief necessary to alleviate their difficulty. No adverse impact will result.

CONCLUSION:

Accordingly, it is recommended that the requested variance be granted, subject to the Applicants obtaining all necessary permits and inspections for the garage.

Date: May 23, 2011



ROBERT F. KAHOE, JR.
Zoning Hearing Examiner

Any appeal of this decision must be received by 5:00 p.m. on June 21, 2011.