

APPLICANTS:
Richard G. Herbig & Mary K. Herbig

REQUEST: Variance to permit an attached garage within the 10 foot side yard setback in the Rural Residential District

HEARING DATE: July 10, 2013

BEFORE THE
ZONING HEARING EXAMINER
FOR HARFORD COUNTY
BOARD OF APPEALS

Case No. 5800

ZONING HEARING EXAMINER'S DECISION

APPLICANTS: Richard G. Herbig & Mary K. Herbig

LOCATION: 2327 Cox Road, Jarrettsville
Tax Map: 23 / Grid: 2E / Parcel: 144
Fourth (4th) Election District

ZONING: RR / Rural Residential District

REQUEST: A variance to Section 267-54B(2), Table 54-1 of the Harford County Code, to permit an attached garage to maintain a 10 foot side yard setback (15 foot required) in the RR / Rural Residential District.

TESTIMONY AND EVIDENCE OF RECORD:

The subject parcel is an approximately one-half acre lot located in the Madonna Manor subdivision. The property is zoned RR/Rural Residential, and is improved by a ranch-type dwelling constructed in 1971. There are no other improvements on the parcel, and the house does not have a garage.

The Applicants have owned the property since 1991. While they have made extensive renovations to both the exterior and interior of the home, they have neither added onto the house nor constructed any freestanding improvements.

The Applicants now wish to construct a two-car garage for equipment and vehicle storage. The Applicants' desire was in part motivated by a new neighboring family which has younger children. The Applicants believe that out of safety considerations the Applicants should have a secured storage area for yard tools, etc. The Applicants also point out that neighbors on either side of them have attached two-car garages and in fact one of the neighbors was required to obtain, and did obtain, a side yard variance to construct a two-car garage.

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The garage, as planned by the Applicants, will be attached, 24 feet by 26 feet in size, with a brick front. The side and rear of the garage will be sided to match that of the existing home.

Mr. Herbig testified that a garage could not be built in the rear of the property as the septic reserve area is located in that area. A well also presents development constraints. The topography of the property slopes slightly down to the southeast.

Mr. Herbig believes that originally his lot, which is somewhat smaller in size than the average lot in Madonna Manor, was designed to support a one-car garage. However, most of his neighbors now have two-car garages and Mr. Herbig believes that a two-car garage would be more in keeping with the neighborhood and would certainly be a more valuable improvement to his home.

Mr. Herbig envisions no adverse impact if the 5 foot side yard setback variance were granted. His immediate neighbors know of his request and neither has expressed any opposition. In fact, as indicated earlier, one of his neighbors received a variance similar to that being requested by the Applicants.

Next for the Harford County Department of Planning and Zoning testified Shane Grimm. Mr. Grimm indicated that the Applicants' lot is, in fact, smaller than most others in the Madonna Manor subdivision and is generally a small lot for a RR zoning district. The Applicants, because of the size of the lot, topography and the location of the existing septic system and well, are unable to construct a garage in any location other than that proposed. A two-car garage is in keeping with the neighborhood. The requested 5-foot variance will cause no adverse impact. The Department accordingly recommends approval.

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 267-63.H (Chesapeake Bay Critical Area Overlay District, variances), 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."*

FINDINGS OF FACT AND CONCLUSIONS OF LAW:

The Applicants own a slightly less than one-half acre lot in a Rural Residential District of northern Harford County. The parcel is improved by an approximately 40 year old ranch home, with private well and septic system.

The Applicants, understandably, wish to construct a 2-car garage to store their vehicles, and other household and lawn equipment. The Applicants were motivated, at least in part, by the close proximity of a new neighboring family with small children. The Applicants believe that interior storage of some of their items will address a safety concern.

This variance is similar to that granted to at least one other home in area. The Applicants' property is in fact unique as it is smaller than others in the Madonna Manor subdivision and a garage similar in size to others in the area and throughout Harford County cannot be built due to various lot constraints.

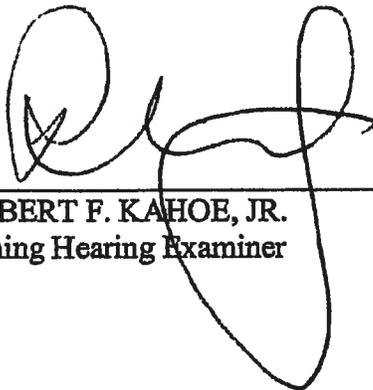
There is no indication of any adverse impact and the requested variance of 5 feet is the minimum relief necessary to alleviate the Applicants' difficulty.

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CONCLUSION:

It is accordingly recommended that the requested variance be granted, subject to the condition that the Applicants obtain all applicable permits and inspections for the construction of the garage.

Date: July 22, 2013



ROBERT F. KAHOE, JR.
Zoning Hearing Examiner

Any appeal of this decision must be received by 5:00 p.m. on August 19, 2013.