

IN RE: PETITION FOR ADMIN. VARIANCE

NW side of Bart Allen Lane; 755 feet NW from
the c/l of East Devonfield Drive

11th Election District

3rd Councilmanic District

(4803 Bart Allen Lane)

Brain P. and Robin L. Znamirowski

Petitioners

* BEFORE THE
* DEPUTY ZONING
* COMMISSIONER
* FOR BALTIMORE COUNTY
* **Case No. 2009-0316-A**

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Deputy Zoning Commissioner as a Petition for Administrative Variance filed by the legal owners of the subject property, Brain P. and Robin L. Znamirowski for property located at 4803 Bart Allen Lane. The variance request is from Section 1A04.3.B.2.b of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a rear yard of 28 feet in lieu of the required 50 feet for a garage addition. The subject property and requested relief are more particularly described on Petitioners' Exhibit No. 1. Petitioners propose to construct a 25 feet x 14 feet garage addition. Petitioners state that after several failed attempts to gain approval for a variance to construct a detached garage in the side yard of the property, it has become apparent that the only solution is to construct a garage which will be attached to the existing principal structure. The location of the existing driveway and the layout and architectural features of the existing dwelling make it impractical to construct the garage addition in any other location. Mr. and Mrs. Edward Healy, residing at 1505 Greendale Road and are owners of adjacent Lot 5, do not have any objection to the proposal to construct the one-story addition to the existing garage.

This proposal as currently presented is consistent and within the spirit and intent of the Order issued for Case No. 2009-0184-A by Zoning Commissioner William J. Wiseman, III.

RECEIVED FOR FILING
7.28.09
[Signature]

The Zoning Advisory Committee (ZAC) comments were received and are made part of the record of this case. The comments indicate no opposition or other recommendations concerning the requested relief.

The Petitioners having filed a Petition for Administrative Variance and the subject property having been posted on June 20, 2009 and there being no request for a public hearing, a decision shall be rendered based upon the documentation presented.

The Petitioners has filed the supporting affidavits as required by Section 32-3-303 of the Baltimore County Code. Based upon the information available, there is no evidence in the file to indicate that the requested variance would adversely affect the health, safety or general welfare of the public and should therefore be granted. In the opinion of the Deputy Zoning Commissioner, the information, photographs, and affidavits submitted provide sufficient facts that comply with the requirements of Section 307.1 of the B.C.Z.R. Furthermore, strict compliance with the B.C.Z.R. would result in practical difficulty and/or unreasonable hardship upon the Petitioner.

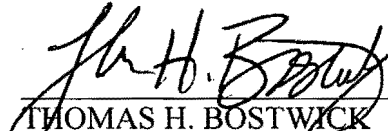
Pursuant to the posting of the property and the provisions of both the Baltimore County Code and the Baltimore County Zoning Regulations, and for the reasons given above, the requested variance should be granted.

THEREFORE, IT IS ORDERED, by the Deputy Zoning Commissioner for Baltimore County, this 28th day of July, 2009 that a variance from Section 1A04.3.B.2.b of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a rear yard of 28 feet in lieu of the required 50 feet for a garage addition is hereby GRANTED, subject to the following:

1. The Petitioners may apply for their building permit and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30 day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioners would be required to return, and be responsible for returning, said property to its original condition.

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PM

Any appeal of this decision must be made within thirty (30) days of the date of this Order.

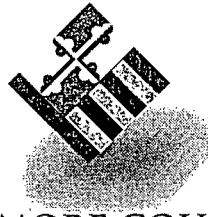

THOMAS H. BOSTWICK
Deputy Zoning Commissioner
for Baltimore County

THB:pz

RECEIVED FOR FILED

7-28-09





BALTIMORE COUNTY
M A R Y L A N D

JAMES T. SMITH, JR.
County Executive

THOMAS H. BOSTWICK
Deputy Zoning Commissioner

July 28, 2009

BRAIN P. AND ROBIN L. ZNAMIROWSKI
4803 BART ALLEN LANE
BALDWIN MD 21013

Re: Petition for Administrative Variance
Case No. 2009-0316-A
Property: 4803 Bart Allen Lane

Dear Mr. and Mrs. Znamirovski:

Enclosed please find the decision rendered in the above-captioned case.

In the event the decision rendered is unfavorable to any party, please be advised that any party may file an appeal within thirty (30) days from the date of the Order to the Department of Permits and Development Management. If you require additional information concerning filing an appeal, please feel free to contact our appeals clerk at 410-887-3391.

Very truly yours,

A handwritten signature in black ink, appearing to read "John H. Bostwick".

THOMAS H. BOSTWICK
Deputy Zoning Commissioner
for Baltimore County

THB:pz

Enclosure

c: David Billingsley, Central Drafting & Design, Inc., 601 Charwood Court, Edgewood MD 21040
Francis X. Borgerding, Jr., Esquire, 409 Washington Avenue, Suite 600, Towson, MD 21204
Mr. and Mrs. Edward Healy, 1505 Greendale Road, Baltimore MD 21218

Petition for Administrative Variance



to the Zoning Commissioner of Baltimore County for the property
located at 4803 BART ALLEN LANE
which is presently zoned R.C. 5

Deed Reference: 20700 / 721 Tax Account # 2200026027

This Petition shall be filed with the Department of Permits and Development Management. The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section(s) BCTR

1A04.3.B.2.b. TO PERMIT A REAR YARD OF 28 FEET IN LIEU OF THE REQUIRED 50 FEET FOR A GARAGE ADDITION

of the zoning regulations of Baltimore County, to the zoning law of Baltimore County.

Property is to be posted and advertised as prescribed by the zoning regulations.

I, or we, agree to pay expenses of above Administrative Variance, advertising, posting, etc. and further agree to and are to be bounded by the zoning regulations and restrictions of Baltimore County adopted pursuant to the zoning law for Baltimore County.

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Contract Purchaser/Lessee:

Name - Type or Print _____
Signature _____
Address _____ Telephone No. _____
City _____ State _____ Zip Code _____

Attorney For Petitioner:

Name - Type or Print _____
Signature _____
Company _____
Address _____ Telephone No. _____
City _____ State _____ Zip Code _____

Legal Owner(s):

BRIAN P. ZNAMIROWSKI
Name - Type or Print _____
Signature Brian P. Znamiorski
ROBIN L. ZNAMIROWSKI
Name - Type or Print _____
Signature Robin L. Znamiorski
4803 BART ALLEN LANE (410) 592-5692
Address _____ Telephone No. _____
BALOWIN MD. 21013
City _____ State _____ Zip Code _____

Representative to be Contacted:

DAVID BILLINGSLEY
CENTRAL DRAFTING & DESIGN, INC.
Name _____
601 CHERRYWOOD CT. (410) 679-8719
Address _____ Telephone No. _____
EDGEWOOD MD. 21040
City _____ State _____ Zip Code _____

A Public Hearing having been formally demanded and/or found to be required, it is ordered by the Zoning Commissioner of Baltimore County, this _____ day of _____ that the subject matter of this petition be set for a public hearing, advertised, as required by the zoning regulations of Baltimore County and that the property be reposted.

Zoning Commissioner of Baltimore County

Case No. 2009-0316-A

Reviewed By Jan

Date 6.8.09

Estimated Posting Date 6.21.09

7-28-09
410-679-1298

Affidavit in Support of Administrative Variance

The undersigned hereby affirms under the penalties of perjury to the Zoning Commissioner of Baltimore County, as follows: That the information herein given is within the personal knowledge of the Affiant(s) and that Affiant(s) is/are competent to testify thereto in the event that a public hearing is scheduled in the future with regard thereto.

That the Affiant(s) does/do presently own and reside at 4803 BART ALLEN LANE
Address number Road or Street name

and that this address is the subject of this variance request as required by law.

That based upon personal knowledge, the following are the facts upon which I/we base the request for an Administrative Variance at the above address (indicate the hardship or practical difficulty; attach an additional sheet if needed) _____

SEE ATTACHED

That the Affiant(s) acknowledge(s) that if a formal demand is filed, and the Affiant(s) desire to proceed with their variance request, they will be responsible for reposting the property and for payment of the advertising fees. They also understand that they may be required to provide additional information.

Brian P. Znamirovski
Signature

BRIAN P. ZNAMIROWSKI
Name- print or type

Robin L. Znamirovski
Signature

ROBIN L. ZNAMIROWSKI
Name- print or type

A Notary Public must complete the following section prior to the filing appointment.

STATE OF MARYLAND, ~~BALTIMORE~~ ^{HARFORD} COUNTY, to wit:

I HEREBY CERTIFY, this 01 day of June, 2009, before me, a Notary Public of the State of Maryland, in and for the County aforesaid, personally appeared:

(Name Affiant(s) here): BRIAN P. AND ROBIN L. ZNAMIROWSKI
the Affiant(s) herein, personally known or satisfactorily identified to me as such Affiant(s).

AS WITNESS my hand and Notarial Seal

[Signature] 01.21.12
Name of Notary Public Commission expires

PLACE SEAL HERE:

4803 BART ALLEN LANE

WE WOULD LIKE TO PROVIDE ADDITIONAL GARAGE SPACE FOR AN ANTIQUE VEHICLE. AFTER SEVERAL FAILED ATTEMPTS TO GAIN APPROVAL FOR A VARIANCE TO CONSTRUCT A DETACHED GARAGE IN THE SIDE YARD OF THE EXISTING DWELLING, IT HAS BECOME APPARENT THAT THE ONLY SOLUTION IS CONSTRUCT A GARAGE WHICH WILL BE ATTACHED TO THE EXISTING PRINCIPAL STRUCTURE. THE LOCATION OF THE EXISTING DRIVEWAY AND THE LAYOUT AND ARCHITECTURAL FEATURES OF THE EXISTING DWELLING MAKE IT IMPRACTICAL TO CONSTRUCT THE GARAGE ADDITION IN ANY OTHER LOCATION.

IT SHOULD BE NOTED THAT MR. AND MRS. EDWARD HEALY, THE OWNERS OF ADJACENT LOT 5, OPPOSED THE CONSTRUCTION OF THE DETACHED GARAGE BUT HAVE NO OBJECTION TO THE CONSTRUCTION OF THE GARAGE ADDITION AS PROPOSED IN THIS REQUEST.

THE PROPOSED GARAGE ADDITION WILL NOT BE USED FOR COMMERCIAL PURPOSES AND WILL BE DESIGNED TO BLEND ARCHITECTURALLY WITH THE EXISTING STRUCTURE

**CASHIER'S
VALIDATION**

ZONING DESCRIPTION

4803 BART ALLEN LANE

Beginning at a point on the northwest side of Bart Allen Lane (50 feet wide) distant 755 feet northwesterly from it's intersection with the center of East Devonfield Drive (50 feet wide), thence being all of Lot 4 as shown on the plat entitled Beckwith Estates recorded among the plat records of Baltimore County in Plat Book 68 Folio 66. Containing 2.016 acres of land, more or less.

Being known as 4803 Bart Allen Lane. Being located in the 11TH Election District, 3RD Councilmanic District of Baltimore County, Maryland.



ADMINISTRATIVE VARIANCE INFORMATION SHEET AND DATES

Case Number 2009- 0316 -A Address 4803 BART ALLEN LANE

Contact Person: J. Merrey Phone Number: 410-887-3391
Planner, Please Print Your Name

Filing Date: 6.8.09 Posting Date: 6/21 Closing Date: 7/6

Any contact made with this office regarding the status of the administrative variance should be through the contact person (planner) using the case number.

1. **POSTING/COST:** The petitioner must use one of the sign posters on the approved list (on the reverse side of this form) and the petitioner is responsible for all printing/posting costs. Any reposting must be done only by one of the sign posters on the approved list and the petitioner is again responsible for all associated costs. The zoning notice sign must be visible on the property on or before the posting date noted above. It should remain there through the closing date.
2. **DEADLINE:** The closing date is the deadline for an occupant or owner within 1,000 feet to file a formal request for a public hearing. Please understand that even if there is no formal request for a public hearing, the process is not complete on the closing date.
3. **ORDER:** After the closing date, the file will be reviewed by the zoning or deputy zoning commissioner. He may: (a) grant the requested relief; (b) deny the requested relief; or (c) order that the matter be set in for a public hearing. You will receive written notification, usually within 10 days of the closing date if all County agencies' comments are received, as to whether the petition has been granted, denied, or will go to public hearing. The order will be mailed to you by First Class mail.
4. **POSSIBLE PUBLIC HEARING AND REPOSTING:** In cases that must go to a public hearing (whether due to a neighbor's formal request or by order of the zoning or deputy zoning commissioner), notification will be forwarded to you. The sign on the property must be changed giving notice of the hearing date, time and location. As when the sign was originally posted, certification of this change and a photograph of the altered sign must be forwarded to this office.

(Detach Along Dotted Line)

Petitioner: This Part of the Form is for the Sign Poster Only

USE THE ADMINISTRATIVE VARIANCE SIGN FORMAT

Case Number 2009- 0316 -A Address 4803 BART ALLEN LANE

Petitioner's Name B. ZNAMIROWSKI Telephone 410-592-5692

Posting Date: 6/21/09 Closing Date: 7/6

Wording for Sign: To Permit A REAR YARD SETBACK of
28ft IN LIEU OF THE REQUIRED 50ft. for
A GARAGE ADDITION.

WCR - Revised 7/7/08

**DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT
ZONING REVIEW**

ADVERTISING REQUIREMENTS AND PROCEDURES FOR ZONING HEARINGS

The Baltimore County Zoning Regulations (BCZR) require that notice be given to the general public/neighboring property owners relative to property which is the subject of an upcoming zoning hearing. For those petitions which require a public hearing, this notice is accomplished by posting a sign on the property (responsibility of the petitioner) and placement of a notice in a newspaper of general circulation in the County, both at least fifteen (15) days before the hearing.

Zoning Review will ensure that the legal requirements for advertising are satisfied. However, the petitioner is responsible for the costs associated with these requirements. The newspaper will bill the person listed below for the advertising. This advertising is due upon receipt and should be remitted directly to the newspaper.

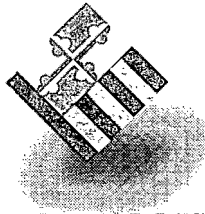
OPINIONS MAY NOT BE ISSUED UNTIL ALL ADVERTISING COSTS ARE PAID.

For Newspaper Advertising:

Item Number or Case Number: 0316
Petitioner: BRIAN P. AND ROBIN L. ZNAMIROWSKI
Address or Location: 4803 BART ALLEN LANE

PLEASE FORWARD ADVERTISING BILL TO:

Name: BRIAN P. AND ROBIN L. ZNAMIROWSKI
Address: 4803 BART ALLEN LANE
BALDWIN, MD. 21013
Telephone Number: (410) 592-5692



BALTIMORE COUNTY
M A R Y L A N D

JAMES T. SMITH, JR.
County Executive

TIMOTHY M. KOTROCO, *Director*
Department of Permits and
Development Management

July 7, 2009

Brian & Robin Znamirowski
4803 Bart Allen Ln.
Baldwin, MD 21013

Dear: Brian & Robin Znamirowski

RE: Case Number 2009-0316-A, 4803 Bart Allen Ln.

The above referenced petition was accepted for processing **ONLY** by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on June 8, 2009. This letter is not an approval, but only a **NOTIFICATION**.

The Zoning Advisory Committee (ZAC), which consists of representatives from several approval agencies, has reviewed the plans that were submitted with your petition. All comments submitted thus far from the members of the ZAC are attached. These comments are not intended to indicate the appropriateness of the zoning action requested, but to ensure that all parties (zoning commissioner, attorney, petitioner, etc.) are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case. All comments will be placed in the permanent case file.

If you need further information or have any questions, please do not hesitate to contact the commenting agency.

Very truly yours,

A handwritten signature in black ink, reading "W. Carl Richards, Jr." with a stylized flourish at the end.

W. Carl Richards, Jr.
Supervisor, Zoning Review

WCR:lnw

Enclosures

c: People's Counsel
David Billingsley: Central Drafting & Design, INC.; 601 Charwood Ct.; Edgewood, MD 21040

AV

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence



RECEIVED

JUL 14 2009

ZONING COMMISSIONER

TO: Timothy M. Kotroco
FROM: Dave Lykens, DEPRM - Development Coordination
DATE: July 13, 2009
SUBJECT: Zoning Item # 09-316-A
Address 4803 Bart Allen Lane
(Znamirowski Property)

Zoning Advisory Committee Meeting of June 15, 2009

 X The Department of Environmental Protection and Resource Management has no comments on the above-referenced zoning item.

Reviewer: JWL

Date: July 13, 2009

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Timothy M. Kotroco, Director
Department of Permits and
Development Management

DATE: June 23, 2009

RECEIVED

JUN 24 2009

FROM: Arnold F. 'Pat' Keller, III
Director, Office of Planning

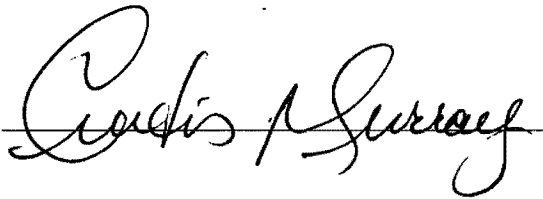
ZONING COMMISSIONER

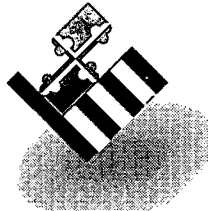
SUBJECT: Zoning Advisory Petition(s): **Case(s) 09-316- Administrative Variance**

The Office of Planning has reviewed the above referenced case(s) and has no comments to offer.

For further questions or additional information concerning the matters stated herein, please contact Jessie Bialek in the Office of Planning at 410-887-3480.

Prepared By:
CM/LL





BALTIMORE COUNTY
M A R Y L A N D

JAMES T. SMITH, JR.
County Executive

JOHN J. HOHMAN, *Chief*
Fire Department

County Office Building, Room 111
Mail Stop #1105
111 West Chesapeake Avenue
Towson, Maryland 21204

June 4, 2009

ATTENTION: Zoning Review Planners

Distribution Meeting Of: June 22.2009

Item Numbers 299,0315,0316,0317,0318,0319,0320

Pursuant to your request, the referenced plan(s) have been reviewed by this Bureau and the comments below are applicable and required to be corrected or incorporated into the final plans for the property.

1. The Fire Marshal's Office has no comments at this time.

Lieutenant Roland P Bosley Jr.
Fire Marshal's Office
410-887-4881 (C) 443-829-2946
MS-1102F

cc: File

CENTRAL DRAFTING AND DESIGN, INC.

601 CHARWOOD COURT
EDGEWOOD, MARYLAND 21040
(410) 679-8719 FAX (410) 679-1298

June 2, 2009

Mr. and Mrs. Edward Healy
1505 Greendale Road
Baltimore, Md. 21218

RE: ZNAMIROWSKI PROPERTY
4801 BART ALLEN LANE
ADMINISTRATIVE VARIANCE REQUEST

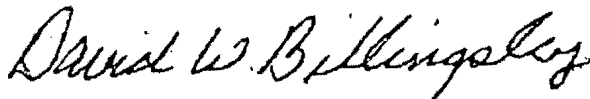
Dear Mr. and Mrs. Healy:

Based on my previous correspondence to you, and my subsequent conversation with your attorney, Frank Borgerding, Esquire, it is my understanding that you have no objection to Mr. and Mrs. Znamirovski's proposal to construct a 14 foot wide by 25 foot deep one story addition to the existing garage.

I have enclosed for your review, a copy of the Plat To Accompany Zoning Petition and a copy of the Petition For Administrative Variance. I believe you will find that the request is consistent with that outlined in my previous correspondence. After your review of the enclosed, I would appreciate you signing the short statement at the bottom of this letter and returning in the envelope provided so I may enter it into the Zoning Commissioner's case file.

On behalf of the Znamirovski's, I would like to thank you for your cooperation in this matter. If you have any questions or need additional information, please do not hesitate to contact me.

Very truly yours,

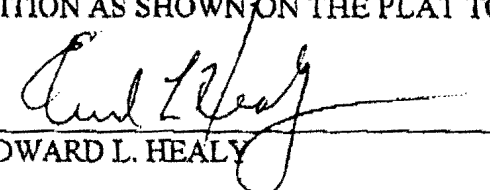
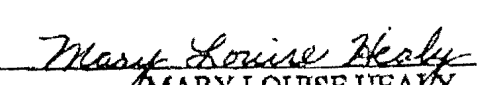


David W. Billingsley

enclosures

cc: Francis X. Borgerding, Jr., Esquire
Brian and Robin Znamirovski

THIS IS TO CONFIRM THAT WE HAVE NO OBJECTION TO THE REQUEST FOR AN ADMINISTRATIVE VARIANCE TO PERMIT THE 14 FOOT WIDE BY 25 FOOT LONG GARAGE ADDITION AS SHOWN ON THE PLAT TO ACCOMPANY ZONING PETITION.


EDWARD L. HEALY
MARY LOUISE HEALY

10 ED

RC 2

2000011012

2400010183

CARROLL MANOR RD

4815

1118002250

1119034500

1102022282

4809

044C1

Pt. Bk. 20 Folio 78

1900008373

4

044B1

4803

1111002210

Pt. Bk. 50 Folio 13

1900008374

6

4727

1101013660

044B2

3 CD

NE 19-E

RC 5

11 ED

2200026027

20070281

4803

2200026028

1900008375

5

2200026026

4805

044C2

BART ALLEN LN

4806

2200026029

1900008375

1700009457

Pt. Bk. 68 Folio 66

2200026025

4807

1900008377

4808

1700009455

1700009456

4725

Pt. Bk. 40 Folio 106

2200026024

4809

19960100

1900008379

4811

NE 19-F

PHOTOS





A



B



C



D

March 09
Denied

Bice

previous
order

IN RE: PETITION FOR VARIANCE
NW/Side Bart Allen Lane, 755' NW of
East Devonfield Drive
(4803 Bart Allen Lane)
11th Election District
3rd Council District

Brian Znamirowski, et ux
Petitioners

* BEFORE THE
* ZONING COMMISSIONER
* OF
* BALTIMORE COUNTY
* Case No. 2009-0184-A

* * * * *

MEMORANDUM OPINION AND ORDER

This matter comes before the Zoning Commissioner for a public hearing on a Petition for Variance filed by Brian P. Znamirowski and his wife, Robin L. Znamirowski, through their attorney, Howard L. Alderman, Jr., Esquire, with Levin & Gann, P.A. The variance request is from Section 400.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit the construction of an accessory building (garage) to be located in the side yard in lieu of the rear yard¹. The Protestants, Edward L. Healy and Mary Louise Healy, his wife, own adjacent property (east side) next to where the proposed structure is to be erected and retained Francis X. Borgerding, Esquire to oppose the requested variance. This Memorandum and Order will briefly address the facts and arguments presented by the parties with respect to the structure and its proposed location. The dominant problem presented in this case is that the same issue was raised and fully litigated in 2007.

By way of background, the property known as 4803 Bart Allen Lane, shown as Lot 4 on a plat entitled Beckwith Estates, south of Carroll Manor Road in Baldwin, was the subject of prior Case Nos. 07-281-A and 07-332-SPHA. In Case No. 07-281-A, Mr. and Mrs. Znamirowski were granted variance relief from B.C.Z.R. Section 1A04.3.B.2.b by the then Deputy Zoning Commissioner John V. Murphy, to allow a rear yard setback of 40 feet in lieu of

¹ Section 400 of the B.C.Z.R. pertains to accessory buildings in residential zones and mandates their location only in the rear yard . . . with a height limitation of 15 feet.

the required 50 feet for the construction of a garage addition. Deputy Commissioner Murphy next heard Case No. 07-332-SPHA in March 2007 involving the Petitioners request to build a detached accessory structure (garage) in the side yard at a height of 28 feet in lieu of the required rear yard and 15 feet. The need for a 28-foot height was driven by Petitioners desire for a second story apartment to be used as an in-law residence for their parents. In his approval, Murphy found that the rear yard of Znamirovski's property was constrained "*by the extensive forest buffer easements and septic reserve area*". He went on to state, "*These are the kind of special conditions which make the impact of the zoning regulations different on the subject property when compared to others in the district*".

A timely appeal of this Commission's decision was then filed by Edward Healy to the County Board of Appeals (CBA). Peter Max Zimmerman, People's Counsel for Baltimore County, participated in the proceedings on behalf of his office. The CBA, after fully adjudicating the issues at a *de novo* hearing held June 27, 2007, reversed the Deputy Zoning Commissioner deciding that there was "no uniqueness to the property that would allow for the granting of a variance permitting an accessory structure to be built in the side and front yards . . ." and unanimously denied the variance requests. As aptly pointed out by Protestants' counsel, the case was fully litigated; the decision of the CBA was not appealed and, therefore, constitutes a final binding Order. To the extent applicable, the findings and conclusions set forth in the Board's Opinion and Order dated November 20, 2007 (Case No. 07-332-SPHA) are adopted by reference and incorporated herein). On March 18, 2009, a new hearing was held before the undersigned on the instant Petition and the Petitioners and Protestants presented testimony and evidence.² For the reasons set forth below, the relief requested will be **DENIED**.

² Brian and Robin Znamirovski presented five (5) exhibits demonstrating what they characterize as substantial changes subsequent to the CBA decision while Protestants offered photographic exhibits and the site plan previously filed in Case No. 07-332-SPHA to refute these characterizations.

This case arises from Petitioners continued desire to build a two-story accessory structure in the northeast corner of their property that is zoned R.C.5 and contains 2.016 acres. The first floor would contain three (3) bays and would be used to store antique automobiles. The second story would be used for storage. David Billingsley, with Central Drafting, Inc., prepared the site plan (Petitioners' Exhibit 1) and testified as to the contrasting differences between the current plan and the previous one in Case No. 07-332-SPHA as follows:

- The new garage as depicted on the building elevations submitted (*See* Petitioners' Exhibit 4) will contain no living quarters and is reduced in size (36' wide x 30' deep x 15' in height), a reduction of 800 square feet. Its location will now be 11 feet off of the northern property line (instead of the previous 10 feet) and 15 feet from the eastern boundary (instead of the previous 5 feet).
- The second story will feature a 9/12 roof pitch and feature dormers and a window on the east side with exterior siding and shingles to match the principal dwelling. B.C.Z.R. Section 260.6 contains residential performance standards and states "Design accessory structures at a scale appropriate to the dwelling and design storage buildings and garages with the same architectural theme as the principal dwelling on the site, providing consistency in materials, colors, roof pitch, and style." There can be no question but that the garage meets these standards and Mr. Billingsley opines that the proposed location would look better and be more compatible than attempting to cram it into the rear yard portion of the lot.
- Further, testimony and evidence offered, including a series of photographs produced, depict where the required height of the garage will be measured. Section 101 of the B.C.Z.R. defines "building height" as "the height of the highest point on a building or other structure as measured by the vertical distance from the highest point on the structure to the horizontal projection of the closest point at exterior grade". As noted on the modified garage plan and photographs, the garage is to be built into a hill/elevation change, which results in a building height

on the rear side facing the neighboring Kahler and Arenas properties of 15 feet and a height on the front side where the overhead garage doors are located of 22 feet. As interpreted by the Zoning Office, the building height measurement means that distance between the *highest point* of the natural grade to the top of the building. The subject proposed garage structure complies with this B.C.Z.R. height limitation. The east façade visible from the Healy property would be shielded by dense evergreen landscaping as illustrated on Exhibit 1.

- Testimony concerning special circumstances and uniqueness driven by site and environmental constraints including the house orientation by others, forest conservation easement encumbrance of 30% of the rear lot, existence of the septic system and the 10,000 square foot septic reserve area and well location – as well as the practical difficulty, if variance relief were not granted was essentially the same as presented to the CBA as previously adopted herein.
- On cross-examination, Mr. Billingsley to his credit stated that this was not the only location the garage could be placed on the lot. While believing it to be the best location, he admitted a garage could be placed in the rear yard behind the house without the need of relocating the existing well. The rear yard is flat and currently serves as the Petitioners' children's play area.

I find the same issues raised and litigated in 2007 are the same issues as the instant case by the same parties for the same site. The doctrines of res judicata and collateral estoppel apply to administrative decisions. *Batson v. Shiflett* v. 325 Md. 684, 704-705 (1992); *Century I Condominium Ass'n v. Plaza Condominium Joint Venture* 64 Md. App. 107, 113-114 (1985). The Court of Appeals has consistently applied these doctrines in zoning cases. *Fertitta v. Brown* 252 Md. 594 (1969); *Chatham Corp. v. Baltram* 243 Md. 138 (1966); *Woodlawn Area Citizens Ass'n v. Board of Co. Com'rs.* 241 Md. 187 (1966); *Whittle v. Board of Zoning Appeals*, 211 Md. 36 (1956).

The doctrine of collateral estoppel is also known as "issue preclusion". It stands for the proposition that matters actually litigated and resolved against a party in a proceeding are considered to have been finally adjudicated for the purpose of a subsequent proceeding even where the subsequent proceedings differ in form. *See Jones v. State*, 350 Md. 284, 295 (1998); *MPC, Inc. vs. Kenny*, 279 Md. 29, 34-36 (1977); *Pat Perusse Realty v. Lingo* 249 Md. 33, 43-45 (1968); *Prescott v. Coppage* 266 Md. 562, 570-573 (1972). Here, the Petitioners, Mr. and Mrs. Znamirowski, requested essentially the same relief for the same site under the same regulations and zoning laws. They are bound by the CBA decision of 2007. Res judicata precludes re-litigating the matter. This finding absent fraud, mistake or inadvertence prevents this Commission and the administrative body from reversing the prior decision. This conclusion can be of no comfort to the Petitioners who have expended great time, effort and expense in attempting to use their property for what they believe to be a reasonable and significant use.

In this case, and as previously stated, the Deputy Zoning Commissioner in his Order involving substantially the same issues found that the subject property was unique in the sense required by *Cromwell v. Ward*, 110 Md. App. 691 (1995). The CBA respectfully disagreed. In summation, I have considered the arguments and evidence presented. While it is quite clear that the issues raised by Petitioners were also before the CBA in Case No. 07-332-SPHA, it was also illustrated through photographs and testimony presented at the hearing (*See* Petitioners' Exhibit 3) that sufficient room exists in the rear yard to locate the garage in conformance with the zoning regulations. Unfortunately for these Petitioners, I find the problem here is a personal one and is not a problem inherent in the land itself or in the application of the B.C.Z.R. to the land.

Pursuant to the advertisement, posting of the property and public hearing on this Petition held, and for the reasons set forth herein, the relief requested shall be denied.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this _____ day of March 2009 that the Petition for Variance from Section 400.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to approve an accessory building (garage) to be located in the side yard in lieu of the rear yard, be and is hereby DENIED.

Any appeal of this decision must be taken in accordance with Section 32-3-401 of the Baltimore County Code.

WJW:dlw

WILLIAM J. WISEMAN, III
Zoning Commissioner
for Baltimore County

c: Howard L. Alderman, Jr., Esquire, Levin & Gann, PA, 502 Washington Avenue,
8th Floor, Towson, MD 21204
Brian P. and Robin L. Znamirowski, 4803 Bart Allen Lane, Baldwin, MD 21013
David Billingsley, Central Drafting & Design, Inc., 601 Charwood Court,
Edgewood, MD 21040
Francis X. Borgerding, Esquire, 409 Washington Avenue, Towson, MD 21204
Mr. and Mrs. Edward L. Healy, 1505 Greendale Road, Baltimore, MD 21218
People's Counsel; File

IN THE MATTER OF
THE APPLICATION OF
BRIAN P. AND ROBIN L. ZNAMIROWSKI
- LEGAL OWNERS / PETITIONERS FOR
SPECIAL HEARING AND VARIANCE ON
PROPERTY LOCATED ON THE NW/S BART
ALLEN LANE, 755' NW OF E DEVONFIELD
DRIVE (4803 BART ALLEN LANE)

11th ELECTION DISTRICT
3RD COUNCILMANIC DISTRICT

* BEFORE THE
* COUNTY BOARD OF APPEALS
* OF
* BALTIMORE COUNTY
* Case No. 07-332-SPHA
*

* * * * *

OPINION

This case comes as an appeal of a Deputy Zoning Commissioner's order in which requested relief for Special Hearing and Variance were granted with restrictions. A public *de novo* hearing was held on June 27, 2007. Petitioners, Brian P. and Robin L. Znamirovski, were represented by John Packard, Esquire. Peter Max Zimmerman, People's Counsel for Baltimore County, appeared on behalf of the Office of People's Counsel. Appellant /Protestant, Edward Healy, was represented by Francis X. Borgerding, Jr., Esquire. A public deliberation was held on July 25, 2007.

Testimony and Evidence

The special hearing request was filed pursuant to Section 500.7 of the *Baltimore County Zoning Regulations* (BCZR) to permit an in-law residence to be located within an accessory structure. The Variance request, filed pursuant to Section 307, is to permit an accessory structure located in the side and front yards with a height of 28 feet in lieu of the required rear yard and 15 feet respectively.

The subject property contains about 2.016 acres, improved with the Petitioners' existing two-story single-family dwelling. The property is zoned R.C. 5. Petitioners testified that they would like to build a two-story accessory structure. The first story would be a garage for antique

vehicles. The second story would contain two apartments in which both sets of in-law parents could reside when they visited. The apartments would contain two bedrooms, two bathrooms, a living room, and kitchen.

David Billingsly, whose firm is Central Drafting, presented the site plan, which he had prepared (Petitioner's Exhibit #1). The proposed structure is on the northeast side of the property, in the side and front yards. According to Mr. Billingsly, the property has special circumstances, with a forest conservation easement in the rear taking up approximately 30 percent of the lot. There is also a 10,000 square-foot septic reserve, which also prevents placing the structure in the rear of the house.

Petitioners' Exhibit #3 is a copy of the subdivision and shows the Protestant's lot, which is across from Petitioners' on Lot 5.

Petitioners' Exhibit #5 shows the elevations of the new structure, and the first and second story floor plans. The ground floor will contain three garage bays, an elevator and stairway to the second floor, which would provide access to the in-law residence.

According to Mr. Billingsly, the practical difficulty, if the variance relief were not granted, would constrict the size of the garage. He stated there was no other location on the lot.

On cross-examination, he testified that in an R.C. 5 zone only one dwelling was permitted by right. The square footage of the existing house is 2,990 (per Petitioners' Exhibit 2), while the new structure would be about 3,636 square feet. He also agreed that it would be possible to place a smaller accessory structure in the rear of the house.

Petitioner Brian Znamirovski testified regarding the uses of the proposed structure. He stated that both sets of in-laws reside in Florida most of the year, but visit during holidays. Should any of the in-laws become ill, he and his wife wanted somewhere nearby where they

could live. He testified that he would comply with the Zoning Commissioner's order to terminate the use of the apartments when they were no longer needed by taking the kitchen out. On cross-examination, he testified that the family owned three cars, which he and his wife drive; he also used two company cars, and owned four antique cars, all of which created the need for the extra garage space.

Protestant Edward Healy testified regarding his objection to the proposed structure. He stated that he was not opposed to the idea of in-law residences, but that this proposal would negatively impact his own property. The structure was immense and only 5 feet from his property line. He stated that he thought accessory buildings were usually smaller than the main building, while the proposed one was much bigger.

Jack Dillon, a planning consultant, also testified for Protestants as an expert in land planning and the *Baltimore County Zoning Regulations*. He testified that BCZR Section 1A04, the regulations for and R.C. 5 zone, did not allow for apartments or accessory structures with apartments (Protestant's Exhibit 1). Section 400, which concerns Accessory Buildings in Residence Zones, provides requirements regarding where accessory buildings should be located (no less than 2-1/2 feet of the property line) and maximum height (15 feet). Mr. Dillon opined that the Petitioners' proposal did not meet the requirements of an accessory structure. He stated that, in his opinion, the proposal is a two-family dwelling with a garage. He also believed there were no grounds to grant a variance, because the property was not unique. Other properties have forest easements and septic systems. In addition, he pointed out that Petitioners had been granted a variance in January 2007 for the attached garage, which is only one-story. At that time they could have expanded the attached garage to accommodate the in-laws. Therefore, the hardship was self-inflicted.

On cross-examination, Mr. Dillon testified that the zoning regulations do not contain specific regulations for in-law apartments, either within existing dwellings or as separate dwellings. In his opinion, however, he stated that this proposed structure is a separate dwelling that is not allowed in the R.C. 5 zone.

Applicable Law

Section 101 – Definitions

Accessory use or Structure – A use or structure which: (a) is customarily incident and subordinate to and serves a principal use or structure; (b) is subordinate in area, extent or purpose to the principal use or structure; (c) is located on the same lot as the principal use or structure served; and (d) contributes to the comfort, convenience or necessity of occupants, business or industry in the principal use or structure served. . . .

400.1 Accessory Buildings in residence zones . . . shall be located only in the rear yard and shall occupy not more than 40 % thereof. . . . In no case shall they be located less than 2-1/2 feet from any side or rear lot lines. . .

400.3 The height of accessory buildings, except as noted in Section 300 shall not exceed 15 feet.

1A04 R.C. 5 (Rural-Residential) Zone

1A04.2A. Uses permitted as right.

2. Dwellings, one-family detached.

11. Accessory uses or structures, including, but not limited to the following:

f. Swimming pools, tennis courts, garages, utility sheds, satellite receiving dishes . . . or other accessory structures or uses (Subject to the height and area provisions for buildings as set forth in Section 400).

Opinion and Order

The first question this Board addressed was whether or not the proposed structure was allowed under current zoning regulations. We find that, based on the regulations for permitted

uses in an R.C. 5 zone and for accessory structures that this proposal is not allowed. Although it is possibly time that the County regulations made some provision for in-law apartments, at this time they do not. The regulations regarding uses in an R.C. 5 zone are clear that apartments of any type are not allowed. The proposal would have two bedrooms, two bathrooms, a kitchen, and living room. There is no guarantee that, once a structure of this size is built, it would ever be the abandoned. While this Board, and even Protestant, understands the impulse to provide an adjoining residence for their in-laws, it is not permitted under the law.

This proposal also does not fit the definition or purposes of accessory uses in the BCZR. The proposed structure is almost twice the size of the existing house on the subject property. It will dwarf not only the house but also anything built near it on the adjoining lot. We credit Mr. Dillon's testimony regarding the applicable zoning regulations and the allowed uses for accessory structures. Mr. Dillon pointed out that, by capping the height of the structures at 15 feet, the County Council intended accessory structures to be subordinate to the main building. In fact, that is the clear intent of the definition of an accessory structure.

Finally, this Board finds no uniqueness to the property that would allow the granting of a variance allowing an accessory structure to be built in the side and front yards and at a height of 28 feet. Again we credit Mr. Dillon's expert testimony that locations exist in the rear of the house, even if not ideal, for an accessory use, and the property was not unique. In addition, Petitioners created a situation of self-inflicted hardship by not considering their need for extra garage space and in-law apartments when they were granted a variance for, and built, the attached garage.

This Board therefore unanimously denies the petition to permit an in-law residence to be located within an accessory structure. We also deny the variance requests.

March 23 07

Grated by Jack Murphy

previous order

IN RE: PETITIONS FOR SPECIAL HEARING * BEFORE THE
 NW side Bart Allen Lane, 755 feet NW of * DEPUTY ZONING COMMISSIONER
 East Devonfield Drive *
 11th Election District * FOR
 3rd Councilmanic District *
 (4803 Bart Allen Lane) * BALTIMORE COUNTY

Brian P. and Robin L. Znamirowski
Legal Owner & Petitioner

CASE NO. 07-332-SPHA

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Deputy Zoning Commissioner as a Petition for Special Hearing and Variance filed by the legal owners of the subject property, Brian P. and Robin L. Znamirowski for property at 4803 Bart Allen Lane. The Special Hearing request was filed pursuant to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit an in-law residence to be located within an accessory structure. The Variance request is to permit an accessory structure located in the side and front yards with a height of 28 feet in lieu of the required rear yard and 15 feet respectively.

The property was posted with Notice of Hearing on March 4, 2007, for 15 days prior to the hearing, in order to notify all interested citizens of the requested zoning relief. In addition, a Notice of Zoning hearing was published in "The Jeffersonian" newspaper on March 6, 2007, to notify any interested persons of the scheduled hearing date.

Applicable Law

Section 500.7 of the B.C.Z.R. *Special Hearings*

The Zoning Commissioner shall have the power to conduct such other hearings and pass such orders thereon as shall in his discretion be necessary for the proper enforcement of all zoning regulations, subject to the right of appeal to the County Board of Appeals. The power given hereunder shall include the right of any interested persons to petition the Zoning Commissioner for a public hearing after advertisement and notice to determine the existence of any non conforming use on any premises or to determine any rights whatsoever of such person in any property in Baltimore County insofar as they may be affected by these regulations.

Section 307 of the B.C.Z.R. *Variances*

"The Zoning Commissioner of Baltimore County and the County Board of Appeals, upon appeal, shall have and they are hereby given the power to grant variances from height and area regulations, from off-street parking regulations, and from sign regulations only in cases where special circumstances or conditions exist that are peculiar to the land or structure which is the subject of the variance request and where strict compliance with the Zoning Regulations for Baltimore County would result in practical difficulty or unreasonable hardship. No increase in residential density beyond that otherwise allowable by the Zoning Regulations shall be permitted as a result of any such grant of a variance from height or area regulations. Furthermore, any such variance shall be granted only if in strict harmony with the spirit and intent of said height, area, off-street parking or sign regulations, and only in such manner as to grant relief without injury to the public health, safety and general welfare. They shall have no power to grant any other variances. Before granting any variance, the Zoning Commissioner shall require public notice to be given and shall hold a public hearing upon any application for a variance in the same manner as in the case of a petition for reclassification. Any order by the Zoning Commissioner or the County Board of Appeals granting a variance shall contain a finding of fact setting forth and specifying the reason or reasons for making such variance."

Zoning Advisory Committee Comments

The Zoning Advisory Committee Comments are made part of the record of this case and contain the following highlights: ZAC comments were received from the Office of Planning dated February 1, 2007 which contains restrictions. ZAC comments were also received from the Department of Environmental Protection and Resource Management dated January 29, 2007 which contains restrictions. Copies of the comments are incorporated herein and made a part hereof the file.

Interested Persons

Appearing at the hearing on behalf of the requested special hearing and variance relief were Brian P. and Robin L. Znamkowski, Petitioners, as well as Robert Infussi and David Billingsley from Central Drafting who prepared the Plat to Accompany. Edward Healy appeared at the hearing as an adjacent property owner. People's Counsel, Peter Max Zimmerman, entered the appearance of his office in this case.

Testimony and Evidence

The subject property contains 2.016 acres +/- zoned RC 5 and is improved by the Petitioner's existing two story single family dwelling. An addition to the existing garage was approved recently in Case No. 07-281-A as shown in exhibit 1. The Petitioners indicate that they would like to build a structure to house both sets of in-laws and the Petitioner's collection of antique vehicles. They initially considered simply adding to the existing home but that this turned out to be impractical. Mr. Billingsley pointed out the rear yard is restricted by the existing septic reserve area and the forest conservation easement. Consequently he opined the only location for an accessory structure large enough to meet these needs is shown on exhibit 1.

The floor plan for the in-law apartments is shown on exhibit 5C and shows two bedrooms, two baths and a common kitchen, dining and living room area. There will be a small elevator to eliminate the need for these elderly people to climb the stairs to the second floor. The Petitioners indicated that they realize that such an arrangement is somewhat experimental with hope that both sets of in-laws will be able to live together compatibly. However they also note that at present one set of in-laws lives in Florida for much of the winter and so there may not be that much overlapping living. Nevertheless they recognize the need for their parents who are elderly to be physically near them for their care.

The need for the 28 foot height arises from the need for a second story for the apartments with roof line and shape compatible with the main house. The elevation for the structure is shown in exhibit 5A which features dormers and roof line similar to the house.

In regard to the Planning Office comments the Petitioners agreed to file an Declaration of Understanding which requires the living facilities be removed once the structure is no longer used by in-laws and also they agreed to record an Order approving this special hearing and the Declaration in the Land Records so as to notify future owners that the structure could not be used

for a dwelling. In regard to the three car garage on the first floor, the Petitioners indicated that their in-laws have vehicles which should be stored out of the weather for the in-laws' comfort and safety. When there is room in this garage, the Petitioners will store some of their antique car collection in the new garage and when all the in-laws are in town the Petitioner will move his vehicles elsewhere. They noted that many other owners in the area have similar additional garages and presented letters of support from neighbors.

Mr. Healy, who owns the vacant lot across the common driveway, attended the hearing to better understand what was being proposed. He asked why the new structure could not be located in the rear yard and was told that the forest buffer easements and septic reserve area prohibit this location. The Petitioner also indicated that the topography of the area around the new garage is such that the new garage will be built somewhat into a small hill. Mr. Healy's property slopes away from the common driveway and so only the top 2/3 of the structure will be visible from the Healy lot. In addition the Petitioner agreed to the Planning Office comment to provide landscaping around the new building as approved by the Baltimore County Landscape Architect.

Mr. Healy indicated that the proposed structure will be subject to subdivision covenants and review by the architectural committee. The Petitioners indicated their willingness to this review if applicable and opined that the structure will add value to the neighborhood as it will be compatible with the house.

Findings of Fact and Conclusions of Law

In regard to the requested special hearing to permit a in-law residences to be located within an accessory structure, I am simply in awe of anyone who would attempt to mix in-law families in such an intimate manner as described in exhibit 5. The Petitioners have only three grandchildren to spread among four parents. I hope it works.

I understand Mr. Healy's concern about the location and use of the new garage. The Petitioners will have to execute a Declaration of Understanding that requires them to dismantle the dwelling aspects of the garage when the in-laws no longer use it. It may never be rented or sold separately. To protect future buyers of the property, I will require the Petitioners to record this Order among the Land Records of the County indicating that the structure is not to be used as a dwelling or used for commercial purposes. In addition I will require the Petitioners to submit a landscape plan for the review and approval of the Baltimore County Landscape Architect who will require proper buffering of the new garage from the neighbors including Mr. Healy. In addition I will require the Petitioners to provide the Office of Planning with architectural plans and renderings to assure that the design of the new garage will be compatible with the Petitioners' home and neighborhood.

Considering all the testimony and evidence I will grant the request to allow in-law apartments in the second floor of the structure subject to conditions as below. With these condition I find that the request is within the spirit and intent of the RC 5 regulations and will not adversely affect the community.

In regard to the requests for variances, considering all the testimony and evidence presented, I find that special circumstances or conditions exist that are peculiar to the land or structure which is the subject of the variance request. The new structure should be architecturally compatible with the new house and neighborhood and so must have a peaked roof and dormers. This raises the height of the structure to 28 feet. In addition the rear yard of the property is constrained by the extensive forest buffer easements and septic reserve area. These are the kind of special conditions which make the impact of the zoning regulations different on the subject property when compared to others in the district.

I also find that strict compliance with the Zoning Regulations for Baltimore County would result in practical difficulty or unreasonable hardship. The Petitioners would be unable to provide for their elderly parents.

Finally, I find that this variance can be granted in strict harmony with the spirit and intent of said regulations and in a manner so as to grant relief without injury to the public health, safety and general welfare. Provided the landscape buffers are in place and the design reviewed by the Planning Office the structure should be compatible with the house and neighborhood. Finally when the Declaration is executed and filed in the land records, the community will be protected against use of the new garage as a dwelling or for commercial purposes.

Pursuant to the advertisement, posting of the property, and public hearing on this petition held, and after considering the testimony and evidence offered by the Petitioners, I find that the Petitioners' special hearing and variance requests should be granted.

THEREFORE, IT IS ORDERED, by the Deputy Zoning Commissioner for Baltimore County, this 23rd day of March, 2007, that the Petitioners' request for Variance request is to permit an accessory structure located in the side and front yards with a height of 28 feet in lieu of the required rear yard and 15 feet respectively is hereby GRANTED; and

IT IS FURTHER ORDERED, the Petitioner's request for Special Hearing request is filed pursuant to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.), to permit an in-law residence to be located within an accessory structure is hereby GRANTED, subject to the following:

1. The Petitioners may apply for their permits and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30 day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioners would be required to return, and be responsible for returning, said property to its original condition; and
2. The Petitioners shall submit a landscape plan for the review and approval of the Baltimore County Landscape Architect to assure proper buffering of the new garage from the neighbors, and

3. The Petitioners to provide the Office of Planning with architectural plans and renderings to assure that the design of the new garage will be compatible with the Petitioners' home and neighborhood; and
4. The Petitioners shall enter into a Declaration of Understanding for In-law Apartments which shall require all aspects of a dwelling be removed after the last relative no longer uses the building as a residence; and
5. The Petitioner shall cause a copy of this Order and the Declaration of Understanding to be recorded by a qualified attorney in the Land Records for Baltimore County to notify future purchasers that this structure is not to be used for a dwelling; and
6. The Petitioner shall not use the structure for commercial purposes; and
7. The Petitioner may store antique vehicles in addition to family vehicles in the structure but shall not recondition or repair said vehicles except for routine maintenance; and
8. Additional information shall be submitted to the Department of Environmental Protection and Resource Management's Ground Water Management Section to determine if perc tests and/or additional components to the septic system will be required.

Any appeal of this decision must be made within thirty (30) days of the date of this Order.

JOHN V. MURPHY
DEPUTY ZONING COMMISSIONER
FOR BALTIMORE COUNTY

JVM:pz

Jan. 17 07
Granted
by Jack Murphy
previous order

IN RE: PETITION FOR ADMIN. VARIANCE
NW end of Bart Allen Drive, 755 feet
NW of c/l of East Devonfield Drive
11th Election District
3rd Councilmanic District
(4803 Bart Allen Lane)

* BEFORE THE
* DEPUTY ZONING COMMISSIONER
* BALTIMORE COUNTY

Brian P. and Robin L. Znamirowski
Petitioners

* CASE NO. 07-281-A

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Deputy Zoning Commissioner as a Petition for Administrative Variance filed by the legal owners of the subject property, Brian P. and Robin L. Znamirowski. The variance request is for property located at 4803 Bart Allen Lane. The variance request is from Section 1A04.3.B.2.b of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a rear yard setback of 40 feet in lieu of the required 50 feet for a garage addition. The subject property and requested relief are more particularly described on Petitioners' Exhibit No. 1. The Petitioners wish to construct a one (1) car addition to the existing garage. The location as shown on the site plan is the only practical location due to the layout and architectural features of the existing structure.

Zoning Advisory Committee Comments

The Zoning Advisory Committee (ZAC) comments are made part of the record of this case and contain the following highlights: None.

Applicable Law

Section 307 of the B.C.Z.R. – *Variances*.

“The Zoning Commissioner of Baltimore County and the County Board of Appeals, upon appeal, shall have and they are hereby given the power to grant variances from height and area regulations, from off-street parking regulations, and from sign regulations only in cases where special circumstances or conditions exist that are peculiar to the land or structure which is the subject of the variance request and where strict compliance with the Zoning Regulations for

Baltimore County would result in practical difficulty or unreasonable hardship. No increase in residential density beyond that otherwise allowable by the Zoning Regulations shall be permitted as a result of any such grant of a variance from height or area regulations. Furthermore, any such variance shall be granted only if in strict harmony with the spirit and intent of said height, area, off-street parking or sign regulations, and only in such manner as to grant relief without injury to the public health, safety and general welfare. They shall have no power to grant any other variances. Before granting any variance, the Zoning Commissioner shall require public notice to be given and shall hold a public hearing upon any application for a variance in the same manner as in the case of a petition for reclassification. Any order by the Zoning Commissioner or the County Board of Appeals granting a variance shall contain a finding of fact setting forth and specifying the reason or reasons for making such variance."

The Petitioners having filed a Petition for Administrative Variance and the subject property having been posted on December 29, 2006 and there being no request for a public hearing, a decision shall be rendered based upon the documentation presented.

The Petitioners have filed the supporting affidavits and photographs as required by Section 32-3-303 of the Baltimore County Code. Based upon the information available, there is no evidence in the file to indicate that the requested variance would adversely affect the health, safety or general welfare of the public and should therefore be granted. In the opinion of the Deputy Zoning Commissioner, the information, photographs, and affidavits submitted provide sufficient facts that comply with the requirements of Section 307.1 of the B.C.Z.R. Furthermore, strict compliance with the B.C.Z.R. would result in practical difficulty and/or unreasonable hardship upon the Petitioner.

Pursuant to the posting of the property and the provisions of both the Baltimore County Code and the Baltimore County Zoning Regulations, and for the reasons given above, the requested variance should be granted.

THEREFORE, IT IS ORDERED, by the Deputy Zoning Commissioner for Baltimore County, this 17th day of January, 2007 that a variance from Section 1A04.3.B.2.b of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a rear yard setback of 40 feet in lieu

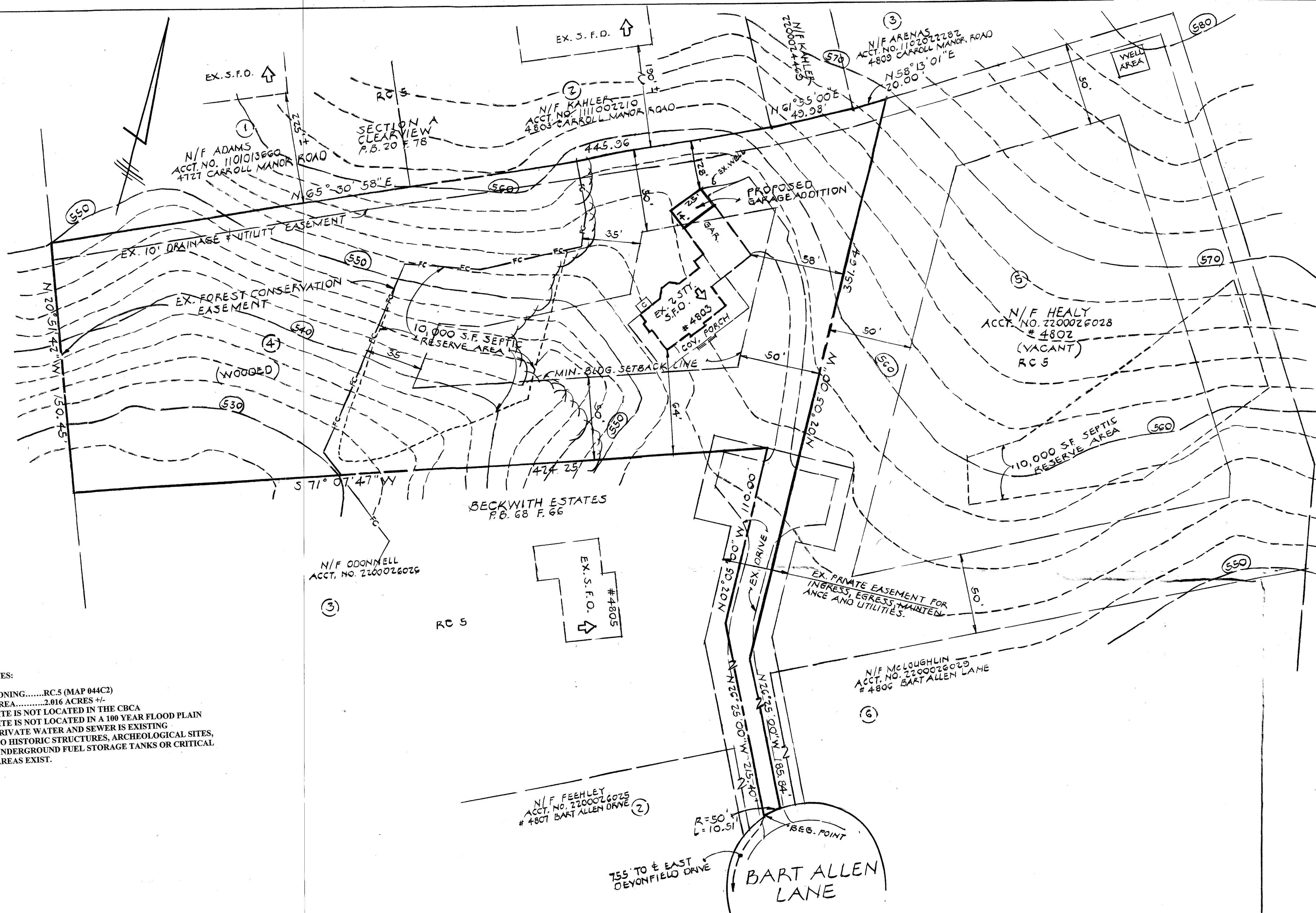
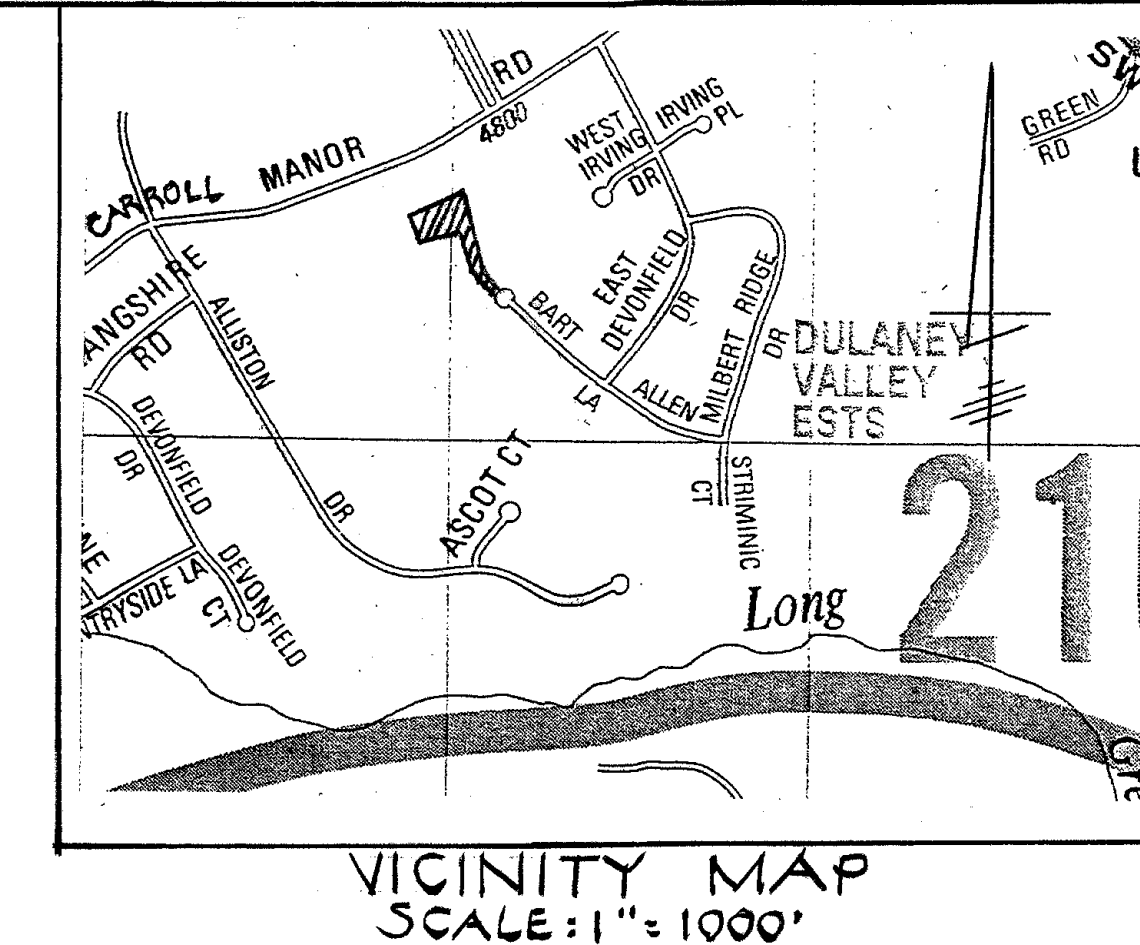
of the required 50 feet for a garage addition be and is hereby GRANTED, subject to the following:

1. The Petitioners may apply for their building permit and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30 day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioners would be required to return, and be responsible for returning, said property to its original condition.

Any appeal of this decision must be made within thirty (30) days of the date of this Order.

JOHN V. MURPHY
DEPUTY ZONING COMMISSIONER
FOR BALTIMORE COUNTY

JVM:pz



NOTES:

1. ZONING.....RC.5 (MAP 044C2)
2. AREA.....2.016 ACRES +/-
3. SITE IS NOT LOCATED IN THE CBCA
4. SITE IS NOT LOCATED IN A 100 YEAR FLOOD PLAIN
5. PRIVATE WATER AND SEWER IS EXISTING
6. NO HISTORIC STRUCTURES, ARCHEOLOGICAL SITES, UNDERGROUND FUEL STORAGE TANKS OR CRITICAL AREAS EXIST.

CENTRAL DRAFTING & DESIGN, INC.
601 CHARWOOD COURT
EDGEWOOD, MD 21040
(410) 679-8719

ZONING HISTORY

- | | | | |
|-------------------------|--|-------------------------|--|
| 1. CASE NO. 07-281-A | A VARIANCE TO PERMIT A SIDE YARD OF 40 FEET IN LIEU OF THE REQUIRED 50 FEET FOR A GARAGE ADDITION GRANTED JANUARY 17, 2007. | 4. CASE NO. 2009-0184-A | A VARIANCE TO APPROVE AN ACCESSORY BUILDING (GARAGE) TO BE LOCATED IN THE SIDE YARD IN LIEU OF THE REAR YARD DENIED MARCH 24, 2009 |
| 2. CASE NO. 07-332-SPHA | A VARIANCE TO PERMIT AN ACCESSORY STRUCTURE LOCATED IN THE FRONT AND SIDE YARDS WITH A HEIGHT OF 28 FEET IN LIEU OF THE REQUIRED REAR YARD AND 15 FEET RESPECTIVELY AND SPECIAL HEARING TO PERMIT AN IN - LAW RESIDENCE ABOVE AN ACCESSORY STRUCTURE. GRANTED MARCH 23, 2007 | | |
| 3. CASE NO. 07-332-SPHA | APPEAL OF ZONING COMMISSIONERS DECISION HEARD AND REVERSED BY BOARD OF APPEALS. NOVEMBER 20, 2007 | | |

OWNER
BRIAN P. AND ROBIN L. ZNAMIROWSKI
4803 BART ALLEN LANE
BALDWIN, MD. 21013
DEED REF. L.20700 F.721
ACCT. NO. 2200026027

PLAT TO ACCOMPANY ZONING PETITION

4803 BART ALLEN LANE
LOT 4 BECKWITH ESTATES P.B. 68 F. 66
ELECTION DISTRICT 11C3
BALTIMORE COUNTY, MARYLAND
SCALE: 1 INCH = 30 FEET MAY 26, 2009