



REPORT TO THE BOARD OF APPEALS
Request for a Variance
Docket #1319
December 10, 2013

SUMMARY OF REQUEST

Property Owner /Applicant: Georgi Bunting

Project #: Docket #1319 (BOA 130021)

Project Request: The applicant is requesting a variance to the 40' side building restriction line

Subject Property: Located at 8602 Paps Parkway, La Plata, MD, Tax Map 56, Parcel 177, Grid 12, Amy & Elmer's Farm

Zoning: Agricultural Conservation (AC)

Background: Per the Base Zone Regulations, Article VI, §297-87, Figure VI-1 (attached), the building setback from adjacent lot lines for the side yard is forty feet (40').

Per §297-29 Accessory uses and structures, B, (5), No accessory use or structures shall be established within 6' of any side or rear lot line.

The applicant is proposing attaching an existing detached garage to the dwelling, converting the garage to a family room, adding a kitchen and garage to create separate living quarters for the property owner's elderly parents.

The existing detached garage is currently in compliance with Article II, §297-29, B, (5), which establishes the building restriction for accessory uses (detached structures), at six feet (6') from the side lot line. Since the addition to the house will attach the existing garage to the house, the property owner must now meet the requirement of the side building restriction line of forty feet (40') for the main structure.

Per the attached aerial map, the garage that is proposed to be attached to the dwelling is not close to the house on the adjacent property (the house is set forward). Subsequently, changing the garage to living quarters should not affect the adjacent home.

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Criteria for Approval and Findings:

Section 297-416, (B) & (C) of the Charles County Code provide the criteria that must be met for the Board to grant a variance.

Pursuant to §297-416, J, The burden of persuasion and of presenting evidence sufficient to allow the Board to reach a conclusion that the required criteria listed in subsections B & C have been met remains with the applicant seeking the variance.

Subsection (B)

“The Board is authorized to grant variances from the strict application of these regulations when, by reason of exceptional narrowness, shallowness or shape of specific parcels of property or by reason of exceptional topographical conditions or other extraordinary situations or conditions of specific parcels of property, the strict application of the regulations of this chapter would result in peculiar and unusual practical difficulties to, or exceptional or undue hardship upon, the owner of said property. However, the Board of Appeals shall not grant variances that will substantially impair the intent, purpose and integrity of this chapter. This provision shall not be construed to permit the Board, under the guise of a variance, to change the permitted use of land.”

Staff Findings: *Staff does not find the existence of any exceptional narrowness, shallowness or shape of the property, or any exceptional topographical conditions or other extraordinary situations or conditions of the property that would result in peculiar and unusual practical difficulties to, or exceptional or undue hardship upon the owner of said property due to the strict application of the regulations of this chapter.*

Subsection (C)

In addition to the general required in Subsection B above, variance requests shall not be granted unless the following criteria are met:

- 1) That special conditions or circumstances exist that are unique to the subject property or structure and that a strict enforcement of the provisions would result in unwarranted hardship which is not generally shared by owners of property in the same land use classification.

Staff Finding: *The applicant advises that the well and septic areas are located as such which would prohibit them from seeking other options/locations for which to add on to their home to provide safe living quarters for their elderly parents. Therefore, this may constitute special conditions or circumstances that exist and are unique to the subject property or structure.*

- 2) Strict enforcement of the provisions of this chapter would deprive the property owner of rights commonly shared by other owners of property in the area.

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Staff Finding: *Strict enforcement of the provisions of this chapter will not deprive the property owner of rights commonly shared by other owners of property in the area.*

- 3) That the granting of a variance will not confer upon an applicant any special privilege that would be denied to other owners of like property and/or structures within the same zone/land use classification.

Staff Finding: *The granting of the requested variance could confer upon the applicant special privilege that would be denied to other owners of like property and/or structures within the same zone/land use classification unless a variance is submitted by such owners of like property and/or structures.*

- 4) The variance request is not based upon conditions or circumstances which are self-created or self-imposed.

Staff Finding: *The request is not based upon conditions or circumstances which are self created or self-imposed by the applicant. The detached garage was existing on the property when the applicant purchased the home however the existing detached garage is in compliance with the setback regulations.*

- 5) Greater profitability or lack of knowledge of the restrictions shall not be considered as sufficient justification for a variance.

Staff Finding: *The applicant is not claiming greater profitability or lack of knowledge of the restrictions.*

- 6) The proposed variance is consistent with the Charles County Comprehensive Plan.

Staff Finding: *The subject property is located in an area designated as Agricultural Conservation (AC) in the 2006 Comprehensive Plan. Staff finds that the proposed Variance for this property is not inconsistent with the 2006 Charles County Comprehensive Plan. We do not anticipate any adverse impacts to the surrounding area from the proposed variance from the BRL.*

Staff acknowledges that the property owner advises that they have considered other options/locations to add on to their home to provide comfortable living conditions for their parents, and that the addition is not in theory bringing the house closer to the property to interfere with the neighboring property since the garage is already located on the property. Therefore, staff recommends that the Board take this into consideration when making the decision to approve or deny the variance to the forty foot (40') side building restriction requirement.

Attachments: Zoning, Vicinity, Aerial Maps, Figure VI-1

Prepared By: Cyndi C. Bilbra, Planning Technician

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