

IN RE: PETITION FOR ADMIN. VARIANCE
W side of Hillrise Road; 150 feet S of the c/l
of Lacy Lane
11th Election District
3rd Councilmanic District
(5464 Hillrise Road)

Dan Sheahan and Larissa Shimoda
Petitioners

* BEFORE THE
* DEPUTY ZONING
* COMMISSIONER
* FOR BALTIMORE COUNTY
* **Case No. 2010-0060-A**

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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, Dan Sheahan and Larissa Shimoda for property located at 5464 Hillrise Road. The variance request is from Sections 400.1 and 400.3 to permit an accessory structure (garage) be located in the front yard with a height of 24 feet in lieu of the required rear yard and 15 feet height, respectively. The subject property and requested relief are more particularly described on Petitioners' Exhibit No. 1. Petitioners wish to construct an accessory building measuring 34 feet x 30 feet. Topography in the rear yard prevents the structure from being constructed in that location. Petitioners' property is also encumbered with a drainage and utility easement, forest buffer easement and forest conservation easement. The property contains 3.74 acres zoned RC 2 and is served by private sewer and water systems.

The Zoning Advisory Committee (ZAC) comments were received and are made part of the record of this case. Comments were received from the Office of Planning dated September 9, 2009, which recommends that the accessory structure not be converted into a dwelling unit or apartment, not contain any sleeping quarters, living area or kitchen facilities, and not be used for commercial purposes.

The Petitioners having filed a Petition for Administrative Variance and the subject property having been posted on August 30, 2009 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 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 Petitioners.

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 September, 2009 that a variance from Sections 400.1 and 400.3 to permit an accessory structure (garage) be located in the front yard with a height of 24 feet in lieu of the required rear yard and 15 feet height, respectively 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.
2. The Petitioners or subsequent owners shall not convert the subject accessory structure into a dwelling unit or apartment. The structure shall not contain any sleeping quarters, living area or kitchen facilities.
3. The accessory structure shall not be used for commercial purposes.

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

____SIGNED_____
THOMAS H. BOSTWICK
Deputy Zoning Commissioner
for Baltimore County

THB:pz