

IN RE: PETITION FOR ADMIN. VARIANCE

NE side of Gunpowder Road, 1,645
feet E of Ranelagh Road
11th Election District
5th Councilmanic District
(5643 Gunpowder Road)

Christine A. and Peter P. Hajewski, Jr.
Petitioners

* BEFORE THE
* OFFICE OF
* ADMINISTRATIVE HEARINGS
* FOR BALTIMORE COUNTY
* **Case No. 2011-0284-A**

* * * * *

OPINION AND ORDER

This matter comes before this Office of Administrative Hearings for Baltimore County as a Petition for Administrative Variance filed by the legal owners of the subject property, Christine A. and Peter P. Hajewski, Jr. for property located at 5643 Gunpowder Road. The variance request is from Section 400 of the Baltimore County Zoning Regulations (“B.C.Z.R.”) to permit a proposed garage (detached accessory structure) to be located partially in the side yard by 5 feet with a height of 22 feet maximum in lieu of the required rear yard location and a height of 15 feet allowed, respectively. The subject property and requested relief are more particularly described on Petitioners’ Exhibit No. 1. Petitioners desire to construct a detached garage measuring 40 feet x 40 feet in size to accommodate recreational vehicle storage. The additional garage height is to accommodate the garage door and the 5/12 roof pitch for appropriate snow load. Petitioners’ dwelling is constructed 170 feet from the front property line. The rear yard is encumbered with a swimming pool and extensive landscaping. The property contains 1.98 acres of land zoned DR 2.

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 April 3, 2011, 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 Administrative Law Judge, 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.

Although the Office of Planning did not make any recommendations related to the garage height and usage, I will impose conditions that the accessory structure not be converted into a dwelling unit or apartment, not contain any sleeping quarters, living area, kitchen or bathroom facilities, and not be used for commercial purposes.

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 Administrative Law Judge for Baltimore County, this 27 day of April, 2011 that a variance from Section 400 of the Baltimore County Zoning Regulations ("B.C.Z.R.") to permit a proposed garage (detached accessory structure) to be located partially in the side yard by 5 feet with a height of 22 feet maximum in lieu of the required rear yard location and a height of 15 feet allowed, 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 Petitioner 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, kitchen or bathroom 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 _____
LAWRENCE M. STAHL
Managing Administrative Law Judge
for Baltimore County

LMS:pz