

IN RE: PETITION FOR ADMIN. VARIANCE	*	BEFORE THE
N side of Garnet Road, 198.67 feet E		
of the c/l of Old Harford Road	*	OFFICE OF
9 th Election District		
6 th Councilmanic District	*	ADMINISTRATIVE HEARINGS
(2704 Garnet Road)		
	*	FOR BALTIMORE COUNTY
James and Kathryn Poletto		
<i>Petitioners</i>	*	Case No. 2012-0124-A

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings as a Petition for Administrative Variance filed by the legal owners of the subject property, James and Kathryn Poletto for property located at 2704 Garnet Road. The variance request is from Section 400.1 of the Baltimore County Zoning Regulations (“B.C.Z.R.”) to permit an accessory structure (garage) in the side yard with a 2 foot side setback in lieu of the required rear yard with a 2.5 foot setback. The subject property and requested relief are more particularly described on Petitioners’ Exhibit No. 1. Petitioners’ rear yard contains two massive trees, both approximately 60 feet tall. One tree is approximately 8 feet in diameter and the other tree is approximately 13 feet in diameter, as evidenced by the submitted photographs. It would not be practical to remove these trees and their root system to construct a garage.

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 November 20, 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.

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 13 day of December, 2011 that a Variance from Section 400.1 of the Baltimore County Zoning Regulations (“B.C.Z.R.”) to permit an accessory structure (garage) in the side yard with a 2 foot side setback in lieu of the required rear yard with a 2.5 foot setback, 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.

Signed
TIMOTHY M. KOTROCO
Administrative Law Judge
for Baltimore County

TMK/pz