

IN RE: PETITION FOR ADMIN. VARIANCE	*	BEFORE THE
W side of Schroeder Avenue; 2,640		
feet W of Belair Road	*	OFFICE OF ADMINISTRATIVE
11 th Election District		
5 th Council District	*	HEARINGS FOR
(3901 Schroeder Avenue)		
	*	BALTIMORE COUNTY
Joseph C. and Diana S. Fernkas		
<i>Petitioners</i>	*	CASE NO. 2012-0275-A

* * * * *

ORDER AND OPINION

This matter comes before the Administrative Law Judge as a Petition for Administrative Variance filed by the legal owners of the property, Joseph C. and Diana S. Fernkas. The Petitioners are requesting Variance relief from Sections 400.1 and 400.3 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit an accessory structure (garage) to be located in the side yard with a height of 20 feet in lieu of the required rear yard and the permitted 15 feet height. The subject property and requested relief is more fully depicted on the site plan that was marked and accepted into evidence as Petitioners' Exhibit 1.

The Zoning Advisory Committee (ZAC) comments were received and are made part of the record of this case. Comments were received from the Department of Environmental Protection and Sustainability dated May 22, 2012, which state:

“Groundwater Management will need to review any future building permits for this site, since the house is served by a septic system.”

The Petitioners having filed a Petition for Administrative Variance and the subject property having been posted on May 12, 2012, 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, this 8 day of June, 2012 by the Administrative Law Judge for Baltimore County, that the Petition for Variance from Sections 400.1 and 400.3 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit an accessory structure (garage) to be located in the side yard with a height of 20 feet in lieu of the required rear yard and the permitted 15 feet height, be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

1. 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, 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 garage into a dwelling unit or apartment. The structure shall not contain any sleeping quarters, living area, kitchen or bathroom facilities.
3. The garage shall not be used for commercial purposes.
4. Groundwater Management will need to review any future building permits for this site since the house is served by a septic system.

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