

IN RE: PETITION FOR ADMIN. VARIANCE

N side of New Section Road; 687.9 feet E
of the c/l of Seneca Road
15th Election District
6th Councilmanic District
(3822 New Section Road)

Barbara L. Sullivan
Petitioner

* BEFORE THE
* OFFICE OF
* ADMINISTRATIVE HEARINGS
* FOR BALTIMORE COUNTY
* **Case No. 2012-0287-A**

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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 owner of the subject property, Barbara L. Sullivan. The variance request is from Section 400.3 of the Baltimore County Zoning Regulations (“B.C.Z.R.”) to permit a proposed garage with a height of 23 feet in lieu of the required 15 feet. The subject property and requested relief are more particularly described on Petitioner’s Exhibit No. 1.

The Zoning Advisory Committee (ZAC) comments were received and are made part of the record of this case. Comments were received from the Bureau of Development Plans Review dated May 17, 2011, which indicate that the first floor or basement must be at least one foot above the flood plain elevation in all construction, the building should be designed and adequately anchored to prevent flotation or collapse and constructed of materials resistant to flood damage. Flood-resistant construction should be in accordance with the Baltimore County Building Code which adopts the International Building Code. Comments were also received from the Department of Environmental Protection and Sustainability dated June 8, 2012, which state:

EPS has reviewed the subject zoning petition for compliance with the goals of the State-mandated Critical Area Law listed in the Baltimore County Zoning Regulations, Section 500.14. Based upon this review, we offer the following comments:

1. The subject property is located within a Limited Development Area (LDA) and a Buffer Management Area (BMA) and is subject to Critical Area requirements. The applicant is proposing to allow an accessory structure to exceed the height limits. The lot is waterfront and contains the existing dwelling, shed, and driveway. The proposed garage is not within the 100-foot buffer and will add 546 square feet of lot coverage. The amount of existing lot coverage was not provided. Lot coverage on the entirety of this property is limited to 31.25% (3,297 square feet), with mitigation required for new lot coverage over 25% (2,637.5 square feet). If the applicant can meet the lot coverage requirements and the 15% afforestation requirements, the relief requested by the applicant will result in minimal impacts to water quality.
2. This property is waterfront. If lot coverage, BMA, and afforestation requirements are met, that will help conserve fish habitat in the Chesapeake Bay.

This office is unable to determine whether the applicant's proposal is consistent with this goal. Provided that the applicants meet the requirements stated above, the relief requested will be consistent with established land-use policies.

The Petitioner having filed a Petition for Administrative Variance and the subject property having been posted on May 20, 2011, and there being no request for a public hearing, a decision shall be rendered based upon the documentation presented.

The Petitioner has 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 Petitioner.

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 18 day of June, 2012 by the Administrative Law Judge for Baltimore County, by the Administrative Law Judge for Baltimore County, that the Petition for Variance from Section 400.3 of the Baltimore County Zoning Regulations (“B.C.Z.R.”) to permit a proposed garage with a height of 23 feet in lieu of the required 15 feet, be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

1. The Petitioner may apply for her building permit and be granted same upon receipt of this Order; however, Petitioner is hereby made aware that proceeding at this time is at her 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 Petitioner 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. Compliance with the ZAC comments made by the Bureau of Development Plans Review dated May 17, 2012, a copy of which is attached hereto and made a part hereof.
5. Compliance with the ZAC comments made by the Department of Environmental Protection and Sustainability dated June 8, 2012, a copy of which is attached hereto and made a part hereof.

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