

IN RE: PETITION FOR ADMIN. VARIANCE
SW side of North Point Road; 20 feet SW
of the c/l of Salisbury Avenue
15th Election District
7th Councilmanic District
(6701 North Point Road)

Claude J. Nelson Jr.
Petitioner

* BEFORE THE
* OFFICE OF
* ADMINISTRATIVE HEARINGS
* FOR BALTIMORE COUNTY
* **Case No. 2012-0299-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 owner of the subject property, Claude J. Nelson Jr. The variance request is as follows:

- From Section 400.1 Baltimore County Zoning Regulations (“B.C.Z.R.”) to permit an accessory structure (detached garage) to be located in the rear yard of a corner lot, closer to the street side, in lieu of the required placement in the one-third of the lot farthest removed from both streets;
- From Section 400.3 of the B.C.Z.R. to permit an accessory structure (detached garage) with a height of 17 feet in lieu of the maximum 15 feet restriction.

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 Department of Environmental Protection and Sustainability dated June 15, 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. This non-waterfront property is located within an Intensely Developed Area and is subject to the Critical Area 10% pollutant reduction requirements. The applicant is proposing to build a 720 square foot garage. The site is already developed with a dwelling, parking pad, and shed. To minimize impacts on water quality, the 10% pollutant reduction requirements must be met. By meeting this requirement, the relief requested by the applicant will result in minimal impacts to water quality.
2. This property is not waterfront. No forest, wetlands, or buffers will be impacted. Therefore, there will be no impact to habitat.

The proposed redevelopment is permitted under the State-mandated Critical Area regulations provided that the redevelopment is in compliance with all Critical Area requirements. Compliance with the Critical Area requirements can allow the subject development to be consistent with established land use policy for development in the Chesapeake Bay Critical Area which accommodate growth and also address the fact that, even if pollution is controlled, the number, movement, and activities of persons in that area can create adverse environmental impacts.

The Petitioner having filed a Petition for Administrative Variance and the subject property having been posted on June 3, 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 25 day of June, 2012 by the Administrative Law Judge for Baltimore County, that the Petition for Variance as follows:

- From Section 400.1 Baltimore County Zoning Regulations (“B.C.Z.R.”) to permit an accessory structure (detached garage) to be located in the rear yard of a corner lot, closer to the street side, in lieu of the required placement in the one-third of the lot farthest removed from both streets;
- From Section 400.3 of the B.C.Z.R. to permit an accessory structure (detached garage) with a height of 17 feet in lieu of the maximum 15 feet restriction,

be and are hereby GRANTED.

The relief granted herein shall be subject to the following:

1. The Petitioner may apply for his building permit and be granted same upon receipt of this Order; however, Petitioner is hereby made aware that proceeding at this time is at his 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 Department of Environmental Protection and Sustainability dated June 15, 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