

<b>IN RE: PETITION FOR ADMIN. VARIANCE</b>	*	BEFORE THE
<b>(12202 Happy Hollow Road)</b>		
8 <sup>th</sup> Election District	*	OFFICE OF
2 <sup>nd</sup> Councilmanic District		
Robert U. Pritchard and Lynn A. Fontana,	*	ADMINISTRATIVE HEARINGS
<i>Legal Owners</i>		
Richard and Marcie Rosario,	*	FOR BALTIMORE COUNTY
<i>Contract Purchaser/Lessee</i>		
Petitioners	*	<b>Case No. 2013-0256-A</b>

\* \* \* \* \*

**ORDER AND OPINION**

This matter comes before the Office of Administrative Hearings for Baltimore County as a Petition for Administrative Variance filed by the legal owners of the subject property, Robert U. Pritchard and Lynn A. Fontana, legal owners, and Richard and Marcie Rosario, contract purchaser/lessee, (the “Petitioners”). The variance request is from Sections 400.1 and 400.3 of the Baltimore County Zoning Regulations (“B.C.Z.R.”), as follows: (1) To allow an existing accessory structure (garage) to remain in the side yard in lieu of the required rear yard placement, and (2) To allow an existing accessory structure (garage) to be increased to a height of 29 feet in lieu of the maximum 15 feet. The subject property and requested relief are more particularly described on Petitioners’ Exhibit No. 1.

This matter was originally filed as an Administrative Variance, with a closing date of May 27, 2013. On May 24, 2013, Leonard Aumiller (12204 Happy Hollow Road) requested a formal hearing on this matter. On May 29, 2013, the hearing was subsequently scheduled for Thursday, June 27, 2013 1:30 PM in Room 205 of the Jefferson Building, 105 West Chesapeake Avenue, Towson. However, on June 4, 2013, Mr. Aumiller cancelled his formal demand and the file was forwarded to the Office of Administrative Hearings on the same day.

The Zoning Advisory Committee (ZAC) comments were received and are made part of the record of this case. There were no adverse ZAC comments submitted from any of the County reviewing agencies.

The Petitioners having filed a Petition for Administrative Variance and the subject property having been posted on May 12, 2013, 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 Department of Planning did not make any recommendations related to the garage height and usage, I will impose conditions that the accessory building 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 7<sup>th</sup> day of June, 2013, that a Variance from Sections 400.1 and 400.3 of the Baltimore County Zoning Regulations (“B.C.Z.R.”), as follows: (1) To allow an existing accessory structure (garage) to remain in the side yard in lieu of the required rear yard placement, and (2) To allow an

existing accessory structure (garage) to be increased to a height of 29 feet in lieu of the maximum 15 feet, be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

1. The Petitioners may apply for their appropriate permits 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.

Any appeal of this decision must be made within thirty (30) days of the date of this Order.

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Signed  
LAWRENCE M. STAHL  
Managing Administrative Law Judge  
for Baltimore County

LMS:dlw