

<b>IN RE: PETITION FOR ADMIN. VARIANCE</b>	*	BEFORE THE
<b>(13309 Bottom Road)</b>		
11 <sup>th</sup> Election District	*	OFFICE OF
3 <sup>rd</sup> Councilmanic District		
Brian A. and Denise D. Fiorucci	*	ADMINISTRATIVE HEARINGS
Petitioners	*	FOR BALTIMORE COUNTY
	*	<b>Case No. 2013-0140-A</b>

\* \* \* \* \*

**OPINION AND ORDER**

This matter comes before the Office of Administrative Hearings (OAH) as a Petition for Administrative Variance filed by the legal owners of the subject property, Brian A. and Denise D. Fiorucci. The variance request is from Section 1A01.3.B.3 of the Baltimore County Zoning Regulations (“B.C.Z.R.”), to permit a garage addition on the side of an existing dwelling with a side yard setback of 5 feet in lieu of the required 35 feet. The subject property and requested relief are more particularly described on Petitioners’ Exhibit No. 1.

It is to be noted that this administrative variance case closed on January 14, 2013 but was not received by OAH until March 20, 2013; the whereabouts of the case file between these dates is unknown.

The Zoning Advisory Committee (ZAC) comments were received and are made part of the record of this case. ZAC comments were received from the Department of Environmental Protection and Sustainability (DEPS) on March 15, 2013, indicating the following:

- Development of the property must comply with the Forest Conservation Regulations (Sections 33-6-101 through 33-6-122 of the Baltimore County Code),
- If forest clearing will be less than 20,000 square feet, a Single Lot Declaration of Intent must be filed with DEPS prior to building permit approval to address Forest Conservation Law, and

- A future building permit must be reviewed by Groundwater Management, since there is a well and septic system on the site.

In addition, letters of support were received from adjacent neighbor, Timothy J. McCabe (13313 Bottom Road), and William B. Delp, owner of easement connected to Petitioners' property, (13324 Fork Road), both of whom had no objections to the requested relief.

The Petitioners having filed a Petition for Administrative Variance and the subject property having been posted on December 30, 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 Department 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, by the Administrative Law Judge for Baltimore County, this 21<sup>st</sup> day of March, 2013 that the Variance request from Section 1A01.3.B.3 of the Baltimore County Zoning Regulations (“B.C.Z.R.”), to permit a garage addition on the side of an existing dwelling with a side yard setback of 5 feet in lieu of the required 35 feet, 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.
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. The Petitioners shall comply with the ZAC comment received from DEPS on March 14, 2013; a copy of which is attached and made a part hereto.

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