

IN RE: PETITION FOR ADMIN. VARIANCE * BEFORE THE
(6523 Darnall Road) *
Sarah L.D. Woods * OFFICE OF ADMINISTRATIVE
Petitioner * HEARINGS FOR
* BALTIMORE COUNTY
* **CASE NO. 2013-0058-A**

* * * * *

ORDER AND OPINION

This matter comes before the Office of Administrative Hearings (OAH) for Baltimore County for consideration of a Petition for Administrative Variance filed by the legal owner of the property, Sarah L.D. Woods. The Petitioner is requesting Variance relief pursuant to Section 1B02.3.C.1, to permit a proposed addition (garage) with a side yard setback of 9.5' and a combination of side yard setbacks of 47.5' in lieu of the required 20' and 50 ft.' respectively. Or in the alternative: From Sections 400.1 and 400.3, to permit an accessory structure (proposed garage) in the side yard with a height of 20' in lieu of the required rear yard and 15' maximum height. The subject property and requested relief is more fully depicted on the site plan that was marked and accepted into evidence as Petitioner's Exhibit 1.

The Zoning Advisory Committee (ZAC) comments were received and are made part of the record of this case. A ZAC comment was received from the Department of Environmental Protection and Sustainability (DEPS) on October 2, 2012, indicating that a future building permit for an addition or garage will need review by Groundwater Management, since the house is served by private septic. In addition, a Revised ZAC comment was received from the Department of Planning on September 20, 2012, indicating the following:

The Department of Planning has reviewed the petitioner's request and accompanying site plan and has the following comments:

1. The property is within the Ruxton Riderwood / Lake Roland Design Review Panel area.
2. A new dwelling proposed for a residential single lot of record within a designated residential design review area is reviewed by the design review panel (DRP). An addition to a dwelling that is more than 50% of the gross square footage of the existing dwelling is also to be reviewed. The gross square footage calculation includes an attached garage, storage areas and/or the basement, if present.
3. The applicant's architect, Patrick D. Jarosinski, submitted a revised site plan and letter to the Department of Planning on September 20, 2012 certifying by his architectural seal that the addition and proposed garage are 1001 square feet, which is under 50% of the existing 2484 square feet. Therefore, review by the DRP is not required.

The Petitioner having filed a Petition for Administrative Variance and the subject property having been posted on September 16, 2012, 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 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 11th day of October, 2012 by the Administrative Law Judge for Baltimore County, that the Petition for Variance seeking relief from Section 1B02.3.C.1, to permit a proposed addition (garage) with a side yard setback of 9.5' and a combination of side yard setbacks of 47.5' in lieu of the required 20' and 50 ft.' respectively, be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

1. Petitioner may apply for her building permits 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, Petitioner would be required to return, and be responsible for returning, said property to its original condition.
2. The Petitioner or subsequent owner(s) shall not convert the subject accessory structure into a dwelling unit or apartment. The structure shall not contain any sleeping quarters, living area, kitchen or bathroom facilities.
3. The accessory structure shall not be used for commercial purposes.
4. The Petitioner must comply with the ZAC comments submitted from DEPS that a future building permit for an addition or garage will need review by Groundwater Management.

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

Signed
JOHN E. BEVERUNGEN
Administrative Law Judge for
Baltimore County

JEB:dlw