

IN RE: PETITION FOR ADMIN. VARIANCE	*	BEFORE THE
(10105 Davis Avenue)		
2 nd Election District	*	OFFICE OF
4 th Councilmanic District		
Alan J. Naylor and Brenda J. Logue	*	ADMINISTRATIVE HEARINGS
Petitioners		
	*	FOR BALTIMORE COUNTY
	*	Case No. 2013-0283-A

* * * * *

OPINION AND ORDER

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, Alan J. Naylor and Brenda J. Logue, for property located at 10105 Davis Avenue. The variance request is from Sections 1A07.8.C.2.g and 400.3 of the Baltimore County Zoning Regulations (“B.C.Z.R.”), to permit a proposed accessory building (barn) located partially in the front yard in lieu of the required side or rear only, and (2) to permit a height of 24 ft. in lieu of the maximum 15 ft. The subject property and requested relief are more particularly described on Petitioners’ Exhibit No. 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), dated June 25, 2013, stating that:

“This property of 3.3 acres is residentially assessed and improved with a dwelling. It is constrained by a Forest Conservation easement and minimal open land for any agricultural purposes. The petitioner indicated that the use of the barn was for a horse, however, the property does not appear to have the minimum of one acre (experts recommend two acres) of fenced pasture land suitable for a horse.”

The Petitioners having filed a Petition for Administrative Variance and the subject property having been posted on June 9, 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 accessory structure height and usage, I will impose conditions that the barn shall 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.

In their filing, the Petitioners indicate the structure will be a “barn/storage building,” and the petition also makes reference to the “potential storage needs of a horse barn.” The ZAC comment from DEPS concerns whether or not the Petitioners own sufficient property to keep horse(s) on the premises. The zoning regulations specify a minimum of 3 acres is required for the “accessory stabling” of horse(s), and that 1 acre of grazing or pasture land be provided for each animal. B.C.Z.R. Section 100.6. The Petitioners will of course need to comply with these (and other) regulations if and when they decide to keep horse(s) at the property. The relief granted herein pertains only to the height and yard placement of the barn/storage building.

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 2nd day of July, 2013, that a Variance from Sections 1A07.8.C.2.g and 400.3 of the Baltimore

County Zoning Regulations (“B.C.Z.R.”), to permit a proposed accessory building (barn) located partially in the front yard in lieu of the required side or rear only, and (2) to permit a height of 24 ft. in lieu of the maximum 15 ft., be and is hereby GRANTED, subject to the following:

The relief granted herein shall be subject to the following:

1. 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 accessory structure into a dwelling unit or apartment. The barn shall not contain any sleeping quarters, living area, kitchen or bathroom facilities.
3. The barn/storage building 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.

Signed
JOHN E. BEVERUNGEN
Administrative Law Judge
for Baltimore County

JEB:dlw