

IN RE: PETITION FOR ADMIN. VARIANCE	*	BEFORE THE
(1317 Wildwood Beach Road)		
15 th Election District	*	OFFICE OF ADMINISTRATIVE
6 th Council District		
Leo P. Callaghan (Trustee), <i>Legal Owner</i>	*	HEARINGS FOR
Doug Bernia, <i>Contract purchaser/lessee</i>	*	BALTIMORE COUNTY
Petitioners	*	
	*	CASE NO. 2014-0129-A

* * * * *

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 property, Leo P. Callaghan (Trustee), Legal Owner, and Doug Bernia, Contract Purchaser/Lessee, (“Petitioners”). The Petitioners are requesting Variance relief from §§ 1A04.3.B.2.b, 1A04.3.B.3, and 400.3 of the Baltimore County Zoning Regulations (B.C.Z.R.), to permit a proposed detached accessory structure (garage) with a front yard centerline of road setback of 51 ft., a building coverage of 24.41%, and a height of 27 ft. in lieu of the required 75 ft., 15%, and 15 ft. respectively. The subject property and requested relief is more fully depicted on the site plan that was marked and accepted into evidence as Petitioners’ 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 Bureau of Development Plans Review (DRP) dated December 18, 2013, indicating that the base flood elevation for the site is 9.4 feet [NAVD 88], and the flood protection elevation is 10.4 feet. In addition, a ZAC comment was received from the Department of Environmental Protection and Sustainability (DEPS) dated January 8, 2014, indicating that Petitioners were obliged to comply with certain Critical Area regulations, as set forth in B.C.Z.R. Section 500.14.

The Petitioners having filed a Petition for Administrative Variance and the subject property having been posted on December 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 (B.C.C.). 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 (garage) 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 9th day of January, 2014, by the Administrative Law Judge for Baltimore County, that the Petition for Variance from the Baltimore County Zoning Regulations (B.C.Z.R.), §§ 1A04.3.B.2.b, 1A04.3.B.3, and 400.3 of the Baltimore County Zoning Regulations (B.C.Z.R.), to permit a proposed detached accessory structure (garage) with a front yard centerline of road setback of 51 ft., a building coverage of 24.41%,

and a height of 27 ft. in lieu of the required 75 ft., 15%, and 15 ft. respectively, 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 accessory structure (garage) into a dwelling unit or apartment. The garage 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 must comply with the ZAC comments received from the Bureau of Development Plans Review (DPR) dated December 18, 2013, and the Department of Environmental Protection and Sustainability (DEPS) dated January 8, 2014; copies of which are attached and made a part thereof.

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