

IN RE: PETITION FOR ADMIN. VARIANCE	*	BEFORE THE
(6717 South River Drive)		
15 th Election District	*	OFFICE OF ADMINISTRATIVE
6 th Council District		
Joseph H. and Lorie L. Durkee	*	HEARINGS FOR
Petitioners		
	*	BALTIMORE COUNTY
	*	CASE NO. 2015-0193-A

* * * * *

OPINION AND ORDER

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 owners of the property, Joseph H. and Lorie L. Durkee (“Petitioners”). The Petitioners are requesting Variance relief pursuant to § 400.3 of the Baltimore County Zoning Regulations (“B.C.Z.R) to permit a rear yard (street side) accessory structure (garage) with a height of 18 ft. in lieu of the maximum height of 15 ft. 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 (DPR) dated March 12, 2015, indicating that prior to building permit application, the Petitioners must contact the Office of the Director of Public Works to determine the flood protection elevation, so that the floor elevation can be set.

The Petitioners having filed a Petition for Administrative Variance and the subject property having been posted on March 12, 2015, 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 § 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 § 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 garage shall not be converted into a dwelling unit or apartment, not contain any sleeping quarters, living area, and kitchen or bathroom facilities.

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 1st day of April, 2015 by the Administrative Law Judge for Baltimore County, that the Petition for Variance seeking relief from § 400.3 of the Baltimore County Zoning Regulations (“B.C.Z.R) to permit a rear yard (street side) accessory structure (garage) with a height of 18 ft. in lieu of the maximum height of 15 ft., be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

1. Petitioners may apply for necessary permits and/or licenses upon receipt of this Order. However, Petitioners are hereby made aware that proceeding at this time is at their own risk until 30 days from the date hereof, during which time an appeal can be filed by any party. If for whatever reason this Order is reversed, Petitioners would be required to return the subject property to its original condition.
2. The Petitioners or subsequent owners shall not convert the garage into a dwelling unit or apartment. The garage shall not contain any sleeping quarters, living area, and kitchen or bathroom facilities.
3. The garage shall not be used for commercial purposes.
4. Petitioners must comply with the ZAC comment from DPR, dated March 12, 2015; a copy of which is attached hereto and made a part thereof.
5. Petitioners must comply with Critical Area regulations prior to building permit application.

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