

IN RE: PETITION FOR ADMIN. VARIANCE	*	BEFORE THE
(816 Seneca Park Road)		
15 th Election District	*	OFFICE OF
6 th Council District		
Charles A. Lipsey, Jr.	*	ADMINISTRATIVE HEARINGS
Petitioner	*	FOR BALTIMORE COUNTY
	*	Case No. 2015-0119-A

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) for Baltimore County as a Petition for Administrative Variance filed by the legal owner of the subject property, Charles A. Lipsey, Jr. (“Petitioner”). The variance request is from § 400.3 of the Baltimore County Zoning Regulations (“B.C.Z.R.”), to allow a height of 28 ft. in lieu of the required 15 ft. for an accessory structure. The subject property and requested relief are more particularly described on 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 Bureau of Development Plans Review (DPR) dated December 15, 2014 indicating that prior to building permit application, the Petitioner must contact the Director of Public Works to determine the flood protection elevation, so that the floor elevation can be set. In addition, an e-mail dated December 15, 2014 was received from Gary Linder (824 Seneca Park Drive) raising concerns about the current/future conditions of the property. It is also to be noted that because the property is located within three (3) miles of Martin State Airport, the Maryland Aviation Administration (“MAA”) is authorized, pursuant to the Federal Aviation Administration and the Code of Maryland Regulations, to perform reviews of the property with respect to potential wildlife hazards such as sediment erosion control, storm water management and landscape plans.

The Petitioner having filed a Petition for Administrative Variance and the subject property having been posted on December 6, 2014, 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 § 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 § 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.

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 6th day of January, 2015, that the Petition for Variance seeking relief from § 400.3 of the Baltimore County Zoning Regulations (“B.C.Z.R.”), to allow a height of 28 ft. in lieu of the required 15 ft. for an accessory structure, be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

1. Petitioner may apply for necessary permits and/or licenses upon receipt of this Order. However, Petitioner is hereby made aware that proceeding at this time is at his 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, Petitioner would be required to return the subject property to its original condition.
2. The Petitioner 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 Petitioner must comply with the ZAC comments from the Bureau of Development Plans Review (DPR) dated December 15, 2014 prior to building permit application; a copy of which is attached hereto and made a part thereof.
5. The Petitioner must comply with Critical Area regulations prior to building permit application.
6. The Petitioner must raze within six (6) months of the date hereof the existing abandoned single family dwelling and garage on the subject property.

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