

IN RE: PETITION FOR ADMIN. VARIANCE	*	BEFORE THE
(10522 Burnside Farm Road)		
3 rd Election District	*	OFFICE OF ADMINISTRATIVE
2 nd Council District		
Allan F. Charles	*	HEARINGS FOR
Petitioner		
	*	BALTIMORE COUNTY
	*	CASE NO. 2015-0184-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 owner of the property, Allan F. Charles (“Petitioner”). The Petitioner is requesting Variance relief pursuant to § 1A04.3.B.2.b of the Baltimore County Zoning Regulations (“B.C.Z.R”) to permit a side principal building setback of 10 ft. in lieu of the required 50 ft. 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 Bureau of Development Plans Review (DPR) dated March 9, 2015, indicating that the setback should be at least 11 ft. so that the garage foundation does not encroach on the existing 10 ft. wide drainage and utility easement.

The Petitioner having filed a Petition for Administrative Variance and the subject property having been posted on February 27, 2015, 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 (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 Petitioner.

Although the Department of Planning did not make any recommendations related to the building 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. In addition, and based upon the ZAC comment of DPR, the setback relief granted will be 11 ft. rather than the 10 ft. as sought in the Petition.

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 19th day of **March**, 2015 by the Administrative Law Judge for Baltimore County, that the Petition for Variance seeking relief from § 1A04.3.B.2.b of the Baltimore County Zoning Regulations (“B.C.Z.R) to permit a side principal building setback of 11 ft. in lieu of the required 50 ft., 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 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. The Petitioner must comply with the ZAC comment submitted by DPR; a copy of which is attached hereto 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