

IN RE: PETITION FOR ADMIN. VARIANCE	*	BEFORE THE
(19 Clipper Road)		
15 th Election District	*	OFFICE OF ADMINISTRATIVE
7 th Council District		
Timothy M. Costin	*	HEARINGS FOR
Petitioner		
	*	BALTIMORE COUNTY
	*	CASE NO. 2016-0215-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, Timothy M. Costin (“Petitioner”). The Petitioner is requesting Variance relief pursuant to § 400.1 of the Baltimore County Zoning Regulations, to permit a proposed garage to be located in the portion of the rear yard closest to the side street in lieu of the required placement in the third portion of the rear yard farthest from both streets. 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. The property is located within the Chesapeake Bay Critical Area (CBCA) and is subject to Critical Area requirements as noted in the ZAC comment dated April 1, 2016 submitted by the Department of Environmental Protection and Sustainability (DEPS). In addition, a ZAC comment was received from the Department of Planning (DOP) dated March 30, 2016, indicating that they do not support granting the petitioned zoning relief. However, it is to be noted that a support letter was received by the adjacent property owners at 21 Clipper Road (Natalie Majewski and Keith Busick) that they had no objections to the Petitioner’s

request.

The Petitioner having filed a Petition for Administrative Variance and the subject property having been posted on March 20, 2016, 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.

The DOP noted in its comment that the proposed garage may impair sight distance of motorists travelling through the alley at the rear of the property. But the file contains photographs (which may not have been seen by the DOP) which show a fence 5-6 ft. in height constructed along the side yard of Petitioner's lot. As such, even if the proposed garage was relocated as suggested by the DOP, drivers exiting the alley would still have to contend with the existing stockade fence.

Although the Department of Planning did not make any recommendations related to the proposed garage's 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 11th day of **April, 2016**, by the Administrative Law Judge for Baltimore County, that the Petition for Variance seeking relief from § 400.1 of the Baltimore County Zoning Regulations, to permit a proposed garage to be located in the portion of the rear yard closest to the side street in lieu of the required placement in the third portion of the rear yard farthest from both streets, 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. Petitioner must comply with the ZAC comment dated April 1, 2016 from DEPS; a copy of which is attached hereto and made a part hereof.
3. 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.
4. The garage 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