

IN RE: PETITION FOR ADMIN. VARIANCE * BEFORE THE
(5839 Loreley Beach Road) *
11th Election District * OFFICE OF ADMINISTRATIVE
6th Council District * HEARINGS FOR
Scott A. and Helen S. Walper *
Petitioners * BALTIMORE COUNTY
* **CASE NO. 2016-0296-A**

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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, Scott A. and Helen S. Walper. The Petitioners are requesting Variance relief from §§ 400.1 and 400.3 of the Baltimore County Zoning Regulations (B.C.Z.R.), as follows: (1) To permit a proposed accessory building (detached garage with a carport) to be located in the front yard of the dwelling in lieu of the required in the rear yard; and (2) To permit the proposed accessory building with a height of 22 ft. 8 in. in lieu of the maximum allowed height of 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. 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 June 23, 2016 submitted by the Department of Environmental Protection and Sustainability (DEPS).

The Petitioners having filed a Petition for Administrative Variance and the subject property having been posted on June 5, 2016, 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 proposed accessory building (detached garage with a carport) height and usage, I will impose conditions that the accessory building 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 **28th** day of **June, 2016**, by the Administrative Law Judge for Baltimore County, that the Petition for Variance seeking Variance relief from §§ 400.1 and 400.3 of the Baltimore County Zoning Regulations (B.C.Z.R.), as follows: (1) To permit a proposed accessory building (detached garage with a carport) to be located in the front yard of the dwelling in lieu of the required in the rear yard; and (2) To permit the proposed accessory building with a height of 22 ft. 8 in. in lieu of the maximum allowed height of 15 ft. respectively, be and are hereby GRANTED.

The relief granted herein shall be subject to the following:

- 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.
- The Petitioners must comply with the ZAC comments from DEPS dated June 23, 2016; a copy of which is attached hereto and made a part hereof.
- 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.
- The garage shall not be used for commercial purposes.
- Building materials for the carport addition shall be consistent with those of the existing principal dwelling.
- The carport shall remain open on the three exposed sides and shall not be enclosed at any time.

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