

<b>IN RE: PETITION FOR ADMIN. VARIANCE</b>	*	BEFORE THE
<b>(4818 Mt. Carmel Road)</b>		
5 <sup>th</sup> Election District	*	OFFICE OF ADMINISTRATIVE
3 <sup>rd</sup> Council District		
Anthony W. and Melissa A. Zahn	*	HEARINGS FOR
Petitioners		
	*	BALTIMORE COUNTY
	*	<b>CASE NO. 2016-0337-A</b>

\* \* \* \* \*

**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, Anthony W. and Melissa A. Zahn (“Petitioners”). The Petitioners are requesting Variance relief pursuant to § 400.3 of the Baltimore County Zoning Regulations (“B.C.Z.R) to permit a proposed accessory building (pole barn building for use as storage of recreation vehicle) in the rear yard of the dwelling, with a proposed height of 24 ft. in lieu of the maximum allowed 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 Department of Environmental Protection and Sustainability (DEPS) dated July 11, 2016 indicating that the Ground Water Management section must review any proposed building permit for an accessory (pole) building, since the septic area is close in proximity to the proposed building site.

The Petitioners having filed a Petition for Administrative Variance and the subject property having been posted on July 9, 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 § 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 (pole barn) height and usage, I will impose conditions that the accessory building (pole barn) 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 1<sup>st</sup> day of **August, 2016**, 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 proposed accessory building (pole barn building for use as storage of recreation vehicle) in the rear yard of the dwelling, with a proposed height of 24 ft. in lieu of the maximum allowed height of 15 ft., be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

1. Petitioners may apply for any appropriate permits and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, Petitioners would be required to return, and be responsible for returning, said property to its original condition.
2. Petitioners or subsequent owners shall not convert the accessory building (pole barn) into a dwelling unit or apartment. The accessory structure (pole barn) shall not contain any sleeping quarters, living area, and kitchen or bathroom facilities.
3. Petitioners must comply with the ZAC comment received from DEPS, dated July 11, 2016; a copy of which is attached hereto and made a part hereof.

Any appeal of this decision must be made within thirty (30) days of the date of this Order.

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Signed \_\_\_\_\_  
JOHN E. BEVERUNGEN  
Administrative Law Judge for  
Baltimore County

JEB:dlw