

<b>IN RE: PETITION FOR ADMIN. VARIANCE</b>	*	BEFORE THE
<b>(12414 Hunters Glen)</b>		
4 <sup>th</sup> Election District	*	OFFICE OF ADMINISTRATIVE
2 <sup>nd</sup> Council District		
Philip S. Gelso & Jacqueline F. McCusker	*	HEARINGS FOR
Petitioners		
	*	BALTIMORE COUNTY
	*	<b>CASE NO. 2017-0038-A</b>

\* \* \* \* \*

**AMENDED 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, Philip S. Gelso and Jacqueline F. McCusker (“Petitioners”). The Petitioners are requesting Variance relief pursuant to § 400.3 of the Baltimore County Zoning Regulations, to permit a proposed two story detached garage in the rear of the dwelling with a height of 31 ft. in lieu of the maximum allowed 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 Bureau of Development Plans Review (DPR) dated August 17, 2016, indicating the following:

“A revised Landscape plan is required.

There is a 20-foot-wide drainage and utility easement crossing this property near the proposed garage. The proposed garage must be reduced in size or moved such that the footing will be outside of the easement. Furthermore the proposed change in grade over the easement must be approved. Both of these issues must be addressed before the building permit will be approved. Subject to compliance with the foregoing, we do not object to granting the requested variance.”

It is to be noted that Petitioners have stated that the Homeowners Association has been presented with plans for the new garage and granted their approval.

The Petitioners having filed a Petition for Administrative Variance and the subject property having been posted on August 21, 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 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 7<sup>th</sup> day of **September, 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, to permit a proposed two story detached garage in the rear of the dwelling with a height of 31 ft. in lieu of the maximum allowed 15 ft., be and is

hereby GRANTED.

The relief granted herein shall be subject to the following:

1. 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.
2. 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.
3. The garage shall not be used for commercial purposes.
4. Petitioners must comply with the ZAC comment from DPR dated August 17, 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.

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

JEB:dlw