

<b>IN RE: PETITION FOR ADMIN. VARIANCE</b>	*	BEFORE THE
<b>(2134 Lodge Forest Drive)</b>		
15 <sup>th</sup> Election District	*	OFFICE OF ADMINISTRATIVE
7 <sup>th</sup> Council District		
Brett M. Martinez	*	HEARINGS FOR
Petitioner		
	*	BALTIMORE COUNTY
	*	<b>CASE NO. 2017-0121-A</b>

\* \* \* \* \*

**OPINION AND ORDER**

This matter comes before the Office of Administrative Hearings (OAH) as a Petition for Administrative Variance filed by the legal owner of the property, Brett M. Martinez (“Petitioner”). The Petitioner is requesting Variance relief from §§ 400.1 and 400.3 of the Baltimore County Zoning Regulations (“B.C.Z.R.”) to permit a replacement garage to be located in the side yard and to have a height of 17 ft. in lieu of the required rear yard placement and a maximum 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 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 November 15, 2016 from the Department of Environmental Protection and Sustainability (DEPS).

The Petitioner having filed a Petition for Administrative Variance and the subject property having been posted on November 6, 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 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 Petitioner.

Although the Department of Planning did not make any recommendations related to the replacement garage 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 1<sup>st</sup> day of **December, 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.”) to permit a replacement garage to be located in the side yard and to have a height of 17 ft. in lieu of the required rear yard placement and a maximum height of 15 ft., be and are hereby GRANTED.

The relief granted herein shall be subject to the following:

- 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.

- Petitioner must comply with the ZAC comment from DEPS; a copy of which is attached hereto and made a part hereof.
- 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.
- 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.

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Signed  
JOHN E. BEVERUNGEN  
Administrative Law Judge  
for Baltimore County

JEB:dlw