

IN RE: PETITION FOR ADMIN. VARIANCE	*	BEFORE THE
(12025 Stoney Batter Road)		
11 th Election District	*	OFFICE OF ADMINISTRATIVE
5 th Council District		
Kevin and Dawn Corun	*	HEARINGS FOR
Petitioners		
	*	BALTIMORE COUNTY
	*	CASE NO. 2017-0262-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, Kevin and Dawn Corun (“Petitioner”). The Petitioner is requesting Variance relief pursuant to § 400.3 of the Baltimore County Zoning Regulations (“B.C.Z.R), to permit a barn with a height of 21 ft. in lieu of the permitted 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 April 13, 2017, indicating development of the property must comply with the Regulations for the Protection of Water Quality, Streams, Wetlands, Floodplains (§§ 33-3-101 through 33-3-120 of the Baltimore County Code). An additional comment was noted on the above ZAC comment from DEPS as follows:

“There are highly erodible soils in the location of the proposed barn. A wetland evaluation must be provided to determine whether there are any wetlands and applicable buffers on site. No structures are permitted within these areas without an approved Forest Buffer variance.”

The Petitioners having filed a Petition for Administrative Variance and the subject property having been posted on April 9, 2017, 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 (barn) height and usage, I will impose conditions that the accessory building (barn) shall not be converted into a dwelling unit or apartment, not contain any sleeping quarters, living area, kitchen or bathroom facilities, and is not to be used for commercial purposes.

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 **April, 2017**, 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 (barn) with a height of 21 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 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 (barn) into a dwelling unit or apartment. The accessory structure (barn) shall not contain any sleeping quarters, living area, and kitchen or bathroom facilities.
3. The proposed accessory building (barn) shall not be used for commercial purposes.
4. Petitioners must comply with the ZAC comment submitted by DEPS, dated April 13, 2017; 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